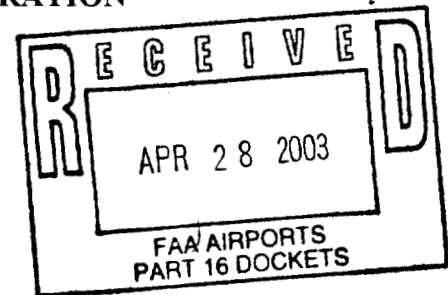


246124

FAA-02-13068-14 JMS

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC



Skydance Helicopters, Inc.
d/b/a Skydance Operations, Inc.

Complainant

vs.

Sedona Oak-Creek Airport Authority
and
Yavapai County, Arizona

Respondents

FAA Docket No. 16-02-02

**MOTION FOR LEAVE TO SUPPLEMENT THE RECORD AND FOR
RECONSIDERATION OF THE DIRECTOR'S DETERMINATION, AND IN THE
ALTERNATIVE APPEAL OF THE DIRECTOR'S DETERMINATION**

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April 28, 2003

00-246124-14

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April 28, 2003

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Office of the Chief Counsel
ATTN: FAA Part 16 Airport Proceedings Docket
AGC-10
Frank San Martin, Esq.
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Re: *Skydance Helicopters Inc., d/b/a Skydance Operations, Inc. v. Sedona
Oak-Creek Airport Authority and Yavapai County, Arizona*
FAA Docket Number 16-02-02


Dear Mr. San Martin:

Enclosed is an original and three copies of Respondents Sedona Oak-Creek Airport Authority's and Yavapai County's Motion For Leave To Supplement The Record And For Reconsideration Of The Director's Determination, And In The Alternative Appeal Of The Director's Determination ("Motion"). We respectfully request that the docket please date stamp and return a copy to the messenger.

As you can see in the Motion, we are respectfully requesting that the Director reconsider his initial Determination based on supplemental facts presented and certain misstatements of facts in the record. In the alternative, we submit this Motion as our formal appeal under 14 C.F.R. § 16.33(b).

Finally, past copies of Respondents audit reports are available upon request. The audit reports further support Respondents' position in the Motion that that no revenue has been diverted from Sedona Oak-Creek Airport.



PILLSBURY WINTHROP^{LLP}

Frank San Martin
March 27, 2003
Page 2

Thank you for your consideration.

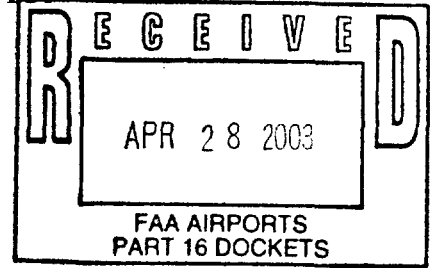
Sincerely,

Kenneth P. Quinn

cc: E. McCall
D. Webster
M. Filler
J. Weller
J. Trock

Enclosure

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**



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April 28, 2003

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UNITED STATES DEPARTMENT OF TRANSPORTATION
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Sedona Oak-Creek Airport Authority
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Yavapai County, Arizona

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FAA Docket No. 16-02-02

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RECONSIDERATION OF THE DIRECTOR'S DETERMINATION, AND IN THE
ALTERNATIVE APPEAL OF THE DIRECTOR'S DETERMINATION**

Respondents Sedona Oak Creek Airport Authority d/b/a the Sedona Airport Administration ("SAA") and Yavapai County, Arizona ("Yavapai"), by counsel and pursuant to 14 C.F.R. § 16.19(a) submit this Motion For Leave To Supplement The Record And For Reconsideration Of The Director's Determination, And In The Alternative Appeal Of The Director's Determination ("Motion").

I. INTRODUCTION AND SUMMARY

On March 7, 2003 the Federal Aviation Administration ("FAA") issued a Director's Determination ("Determination") in accordance with 14 C.F.R. § 16.31 and found Respondents SAA and Yavapai in violation of certain Federal grant obligations. Respondents submit this Motion as provided in 14 C.F.R. § 16.19(a) and § 16.33(b). Respondents respectfully request that the FAA reconsider its decision based on further review of the facts presented in the Part 16 proceeding and of the supplemental information contained herein.

The supplemental information provided in this Motion¹ is intended to provide the FAA with a better understanding of Respondents' legitimate safety concerns and of the necessity to impose a commercial license requirement on commercial tour operators.² The supplemental information will demonstrate that, given Complainant's repeated unwillingness to comply with airport policy and safety directives, Respondent SAA was justified in denying Complainant a lease of any term, and at the very least, was justified in requiring Complainant to execute a short term license agreement concurrent with its execution of a 30-year lease for construction of a hangar.

Respondents move for reconsideration of the Determination and supplement of the record to permit the Director to more fully consider the relevant facts and examine the potentially far-reaching implications of his initial conclusion that terms of the commercial license "form an unreasonable requirement for access." Upon reconsideration, the Director could also correct an obvious flaw in the initial Determination, which mischaracterizes Complainant as a private hangar tenant for purposes of comparing lease offers. (DD at 27). In the alternative, Respondents submit this Motion as their formal appeal of the Determination in accordance with 14 C.F.R. § 16.33(b).

On appeal from the Director's Determination, the Associate Administrator must determine (1) whether a preponderance of reliable, probative and substantial evidence supports the Director's findings of fact; and (2) whether the Director has made each conclusion of law in accordance with applicable law, precedent and public policy. *Ricks v. Millington Mun. Airport*

¹ This Motion is supported by the Complainant's Exhibits 1-31 ("Compl. Exhibit ____"), Respondents' Exhibits from Respondents' Part 16 Answer and Motion to Dismiss ("Answer at ____") and supporting Exhibits A-Z ("Resp. Exhibit ____"), the Director's Determination ("DD at ____") and the Respondents Supplemental Exhibits 1-____ ("Supplemental Exhibit ____") attached to this Motion.

² The Director generally classified tenants into two major categories – aeronautical operators and commercial operators. This characterization is flawed and misleading; Respondents instead will use the terms "commercial tour operator" and "private hangar tenant." The FAA's initial nomenclature is particularly perplexing as "commercial operators," by the terms of their leases, are prohibited from conducting commercial activities at the Airport. In addition, the majority of so-called "commercial operators" are, in fact, private individuals leasing space for their individual aircraft.

Auth., No. 16-98-19, 1999 FAA LEXIS 1076, at *17 (Dec. 20, 1999). In addition, Respondent may raise new issues on appeal. *See: Turner v. City of Kokomo*, No. 16-98-16, 1999 FAA LEXIS 803, at *27-28 (July 27, 1999).

In the Determination, Respondent's respectfully submit that the Director made several errors in his findings of fact and conclusions of law. For the reasons stated herein, the Director should reconsider his Determination. If the Determination is not reconsidered, the Associate Administrator should reverse the Determination and dismiss Complainant's complaint, or in the alternative, remand the Determination to the Director for further consideration. Where the Director's Determination is not supported by adequate record evidence, the Associate Administrator may remand the proceeding for further consideration of additional evidence. *See: Town of Fairview, Texas v. City of McKinney, Texas*, Docket No. 16-99-04, *Order of Remand* at 14 (Mar. 28, 2000).

Respondent values all commercial tour operators and their contributions to the Airport and Sedona community. Respondent realized approximately \$70,000 per year in revenue from Complainant's operations at the airport and had every interest in assisting Complainant so that it could increase those revenues. At all times "SAA sought to accommodate Skydance as a tenant at the Airport and acted in good faith to reach an agreement with Skydance regarding its operations." (Supplemental Exhibit 1).

As the newly executed affidavits submitted in Respondent's motion to supplement the record make clear, Complainant has a history of non-compliance with Airport policy and safety directives on the Airport. Given Complainant's behavior, Respondents was under no obligation—federal or otherwise—to agree to negotiate with Complainant for a long-term lease. In fact, Respondent SAA had already notified Complainant that it would not renew its lease due to the September 29, 2000 incident when Complainant requested a 30-year lease. Respondent SAA viewed Complainant's proposal as an opportunity to ensure Complainant's continued

operations at the Airport and to get Complainant to agree to sign a commercial license so that Respondent SAA could meaningfully enforce its policy and safety directives.

Respondent offered Complainant a 30-year lease and a two-year commercial license, but Complainant refused to execute the commercial license that all commercial tour operators were required to execute. Respondent then offered Complainants a 10-year lease under which *Respondent* would construct the hangar and lease it to Complainant if Complainant would sign a commercial license, but again Complainant refused and decided instead to file a complaint with the FAA and pursue actions in state court.³ During lease negotiations, Complainant continually disregarded Airport policy and safety directives and its actions continued to potentially endanger the safety of themselves, other commercial tour operators and airport visitors. Complaint's disregard for airport policy regarding solicitations on airport property resulted in complaints from airport visitors and tension between Complainant and other tour operators.

All long term leases at the Airport are to private hangar tenants and explicitly prohibit commercial activities, such as Complainant's commercial tour operations. In the event that any private hangar tenant desired to conduct commercial tour operations from its leased hangar, it would be required to execute a short term commercial license. By contrast, all commercial activities are for terms of two years. Given the Respondent's desire to accommodate Complainant's proposal coupled with Respondent SAA's obligation to operate the Airport in a safe and efficient manner, it was not unjustly discriminatory for Respondent SAA to require a lease *and* a short term commercial license from Complainant.

³ The Determination makes the assumption—contrary to the facts in the record—that Complainant, not Respondent, would construct the hangar under the terms of the 10-year lease. The record actually reflects that Respondent SAA would construct the hangar to the Complainant's specifications.

⁶ Two other tour operators did not sign the agreement – one, SkyTreks, who executed a commercial activity lease before the commercial license was prepared and who subsequently ceased operations at the Airport and another operator whose commercial lease has not come up for renewal. (See Resp. Exhibit S)

II. STATEMENT OF FACTS

A. On-Going Safety Concerns Justified The License Agreement Requirements.

In recent years, increases in tourism in and around the Sedona area have resulted in an increased demand for commercial air tours at Sedona Oak-Creek Airport (“Airport”). (Answer at 4). Competition for passengers has been intense among commercial tour operators. Respondent SAA imposed the requirement of a license agreement on all commercial operators to address ongoing specific safety and public welfare concerns. Given the size and number of operations at the Airport, it is essential for the safety of all users of the airport for the commercial tour operators to conduct their businesses in a safe and professional manner. Respondent SAA determined, in accordance with its federal obligations to operate the Airport in a safe and serviceable manner, that a commercial license for all commercial tour operators was necessary to ensure that commercial tour operators conducted their business in a safe and professional manner. (Supplemental Exhibit 4, Resp. Exhibit Q).

While the record thus far provides a brief overview of some of the ongoing issues between commercial tour operator tenants at the airport, additional facts are necessary to understand the overall environment at the Airport and the nature of the disputes that Respondent SAA faced on a regular basis.

The September 29, 2000 altercation between an employee of Complainant and an employee of Red Rock Biplane Tours, Inc. (“Red Rock”) (the “September 29, 2000 Incident”) (Answer at 6-7, Resp. Exhibit B) was one of a long list of incidents by and between commercial tour operators at the Airport. To fully understand Respondent SAA’s justification for imposing stringent license terms on its commercial tour operators, the FAA should take into account the ongoing disputes that culminated in the September 29, 2000 Incident. Even after the imposition of the commercial license requirement, unprofessional behavior and potentially unsafe operations by Skydance—the only commercial tour operator who refused to execute a commercial license—continued.⁶ Because Complainant refused to sign the commercial license,

Respondent SAA had no effective way to control Complainant's unprofessional and potentially unsafe behavior.

Safety and public welfare incidents have been ongoing, but have escalated in recent years. (Supplemental Exhibits 1 and 4). Between the time that Mr. McCall became the Airport Manager in 1999 and the September 29, 2000 Incident, the Sedona Police Department was called on no less than five occasions to address situations between commercial tour operator tenants. (Supplemental Exhibits 1 and 4). As stated in Mr. McCall's affidavit, subsequent to the September 29, 2000 Incident, he "became aware that two employees of two tour operators were carrying concealed weapons with them at the Airport." (Supplemental Exhibit 1).

1. The Red Rock/AeroVista dispute

A February 12, 1998 letter from AeroVista, a commercial tour operator at the Airport, to the Respondent SAA, alleged that it was the "victim of numerous acts of vandalism," including cut wires, damaged signage and flattened tires. The letter also alleges that AeroVista's passengers had been "taunted and insulted in person and over the radio" and that another commercial tour operator's pilot often directed obscene gestures to AeroVista's staff and customers. AeroVista also alleged that it was physically prevented from doing business at its leased premises and was threatened with violence. (Supplemental Exhibit 5).

On April 6, 1998, Red Rock sent a letter to Respondent requesting that AeroVista's property employees remain 50 feet away from its hangar facility. (Supplemental Exhibit 6). On April 27, 1998, Red Rock sent a letter to Respondent alleging "ongoing harassment" of its wash attendant by AeroVista. (Supplemental Exhibit 7). On August 19, 1998, Red Rock sent a letter to Respondent alleging that an AeroVista employee "pointed a gunlike figure at our aircraft" and sought to notify Respondent of "ongoing harassment and blatant interference with a flight crew." (Supplemental Exhibit 8). On August 19, 1998, AeroVista sent a letter to Respondent denying Red Rock's allegations. (Supplemental Exhibit 9).

On March 15, 1999, Red Rock sent a letter to Respondent notifying it of "continued harassment" from AeroVista owners and enclosing a "video tape that clearly shows on three

different days close together of our continued harassment” and copy of a police report detailing an incident where a hangar door was blocked by cars, preventing Red Rock from accessing its hangar. (Supplemental Exhibit 10).

Respondent SAA addressed these allegations with phone calls and individual meetings with the respective commercial tour operators to remind them of their continual obligation to comply with airport policy and safety directives. (Supplemental Exhibit 1).

2. *Deceptive Commercial Practices of Commercial Tour Operators at the Airport*

Mr. McCall, Airport Manager observed that it was not “uncommon for a commercial tour operator to advertise a low rate for a tour, but to insist on a much more expensive tour upon the customer’s arrival at the Airport” and that “deceptive signage was prevalent.” (Supplemental Exhibit 1). The Airport “regularly received complaints from customers and passengers regarding these unprofessional and deceptive practices,” (Supplemental Exhibit 1).

After numerous reports of unprofessional and deceptive tactics by commercial tour operators to solicit customers, on November 22, 1999, Respondent SAA issued a notice to all commercial tour operators that no solicitations would be allowed on Airport Property. (Supplemental Exhibit 12). On February 21, 2000, Respondent sent another notice to commercial tour operators informing them that future “disrespectful business practices” would result in “lease violation letters.” (Supplemental Exhibit 14).

Notwithstanding this directive, Respondent continued to receive complaints from commercial tour operators and visitors to the airport regarding deceptive tactics. (Supplemental Exhibits 1, 15, 30 and 35, Resp. Exhibits T and S). Red Rock sent a letter to Respondent alleging that Complainant had stolen customers that had pre-booked on one of its tours. (Supplemental Exhibit 15)

3. *Complainant Incidents*

In early 2000, one of Respondent SAA’s staff members was called to resolve a dispute between Red Rock and Complainant regarding an ongoing situation related to where Red Rock’s

employees parked their vehicles and fuel trucks. According to an internal Respondent memorandum from Ken Romm, Assistant Airport Manager, to Edward "Mac" McCall, Airport Manager, Complainant expressed concern over a "very unprofessional appearance, and blocked view of [Complainant's] helicopter, which presents a hazard to [Complainant's] boarding and unloading passengers." (Supplemental Exhibit 13).

On May 6, 2000, Red Rock sent a letter to Respondent regarding an incident where one of Red Rock's biplanes struck a pick-up truck belonging to one of Complainant's employees in an attempt to avoid another aircraft. Red Rock alleged that the pick-up was unattended and that the Red Rock pilot was "taxi-ing [sic] the aircraft directly over the yellow center stripe on the aircraft ramp area when the wing hit the ford [sic] and my forward movement stopped." (Supplemental Exhibit 16) In response, Respondent sent a letter to Complainant asking it to review its procedures for operations in airport movement areas. (Supplemental Exhibit 17).

On May 17, 2000, Respondent SAA's Assistant Airport Manager, Ken Romm, filed an incident report with the Sedona Police Department regarding dangerous objects found on a taxi-way turnoffs. Mr. Romm filed the report as evidence in the event that someone was attempting to sabotage the commercial tour operators at the Airport. Mr. Romm also requested additional police patrols at the Airport at night. (Supplemental Exhibit 18).

A June 28, 2000 internal memorandum describes an incident between Red Rock and Complainant where Complainant allegedly inserted several "very sharp 2-inch drywall screws" in the top of parking cones located in Complainant's operations area. According to the memorandum, one of Red Rock's employees did not see one of the cones and backed over it with his truck, puncturing one of the tires in the process. (Supplemental Exhibit 19). Approximately 50 screws were removed from the cones, and a police report was filed detailing the incident. (Supplemental Exhibit 20). Complainant admitted in the police report to putting the screws in the cones, but denied it was done maliciously. Red Rock sent a letter to Respondent SAA on June 30, 2000 to notify Respondent SAA of the safety hazard posed by its actions. (Supplemental Exhibit 21).

Subsequent to this incident, on July 11, 2000, Respondent SAA's counsel sent a letter to Complainant notifying it of a breach of its lease as a result of the June 28, 2000 incident and demanding that such behavior immediately stop. The letter also informed Complainant that if the activity continued, Respondent SAA would "vigorously move to exercise all legal remedies available to it, including but not limited to, immediate termination of [Complainant's] lease." (Supplemental Exhibit 22).

On July 20, 2000, Respondent's counsel sent another letter to Complainant informing Complainant that it is responsible for the actions of its employees and addressing Complainant's inquiry regarding vehicle access to Complainant's ramp area. (Supplemental Exhibit 25).

On July 17, 2000, Red Rock sent a letter to Respondent SAA and its board of directors ("Board") alleging an "ongoing hazardous situation between [Red Rock] and [Complainant]" and requesting their removal from Complainant's operational area. The letter also alleges a history of sabotage, verbal threats, and slanderous verbal attacks against Red Rock by Complainant. (Supplemental Exhibit 23). On July 21, 2000, Respondent SAA's counsel sent a letter to Red Rock in response to Red Rock's July 17, 2000 letter. (Supplemental Exhibit 24).

On July 25, 2000, another internal memorandum details alleged events that occurred on July 24, 2000. Red Rock alleged to Mr. Romm that Complainant had kept its helicopter running (for maintenance purposes) in close proximity to Red Rock's and Complainant's maintenance hangars. Red Rock complained that Complainant's maintenance was "potentially damaging to his aircraft" and that his employees were forced to work with their hangar doors closed. According to the memorandum, Complainant indicated that it was "fed-up" with Red Rock. Both parties requested clarification on Respondent SAA's policy for performing maintenance in that area. Finally, the memorandum asserts that AeroVista also complained that the running helicopter caused them to lose customers. (Supplemental Exhibit 26). Again Respondent SAA addressed these allegations by meeting with commercial tour operators and reiterating airport policy and safety directives. (Supplemental Exhibit 1).

On August 13, 2000, an airport visitor filed an "Airport Accident Report" to inform the Respondent SAA of what she construed as unsafe operations by Complainant. The report alleges that Complainant fueled its helicopter(s) at least four times while the engine was running. It also alleges poor crowd control by Complainant of its customers. (Supplemental Exhibit 27).

On August 24, 2000, a Respondent internal memorandum reports another complaint by Red Rock against Complainant. Red Rock complained that Complainant was "being inconsiderate and creating a safety hazard with their continuous departures from a crowded ramp area." Red Rock asserted that Complainant's actions were in violation of Respondent's minimum standards and requested that Respondent take action to enforce its minimum standards. (Supplemental Exhibit 28). Respondent SAA again demanded that Complainant comply with Airport policy and safety directives.

On September 4, 2000 – less than a month before the September 29, 2000 Incident – Red Rock notified the FAA by letter that Complainant continued to operate in violation of airport policy by taking off near the fuel truck and restaurant and in front of passengers and onlookers. (Supplemental Exhibit 33). Al Bieber, a member of the SAA Board, also observed similar behavior. (Supplemental Exhibit 2). The same behavior was observed by Thomas R. Simpson, Operations Manager, and Ken Romm, Assistant Airport Manager after the September 29, 2000 incident (Supplemental Exhibits 33 and 35).

On September 10, 2000, an internal memorandum summarized a complaint by Complainant that Red Rock employees were soliciting Complainant's customer from the "porch and comm-ops building." Complainant also alleged that it was having a difficult time keeping employees because of "the harassment and bully tactics employed by the Red Rock Biplane employees." (Supplemental Exhibit 30). On September 12, 2000, Complainant sent a fax to Respondent alleging that Red Rock had placed misleading signs above its doorways. (Supplemental Exhibit 31).

The ongoing safety situation culminated on September 29, 2000 when one of Complainant's helicopters landed in front of one of Red Rock's open hangars and a potentially

life-threatening altercation ensued. The details of the altercation are more fully described in Respondents Answer. (Answer at 6-7, Resp. Exhibits A and B).

Following the September 29, 2000 Incident, the Board held a special meeting to address the incident. The Board voted unanimously on October 9, 2000 to terminate Red Rock's lease immediately and not to renew Complainant's lease when it expired on March 31, 2001. (Resp. Exhibit A). Because Red Rock expressed a desire to remain on the Airport, on October 10, 2000 and pursuant to the advice of counsel, Respondent offered Red Rock a compromise: Red Rock would be required to execute a Termination of Lease and Revocable License to continue operating at the Airport. (Supplemental Exhibit 4). Complainant was also asked to sign a Termination of Lease and Revocable License for the Respondent to consider allowing Complainant to operate at the Airport beyond the term of its commercial activity lease that was due to expire on March 31, 2001. (Supplemental Exhibit 33). Red Rock signed the Termination of Lease and Revocable License, but Complainant refused. (Supplemental Exhibit 4).

B. 1999 Heliport Safety Evaluation And Complainant's Ongoing Refusal To Comply With Airport Safety Directives.

In 1999, Respondent engaged Beiber Aviation Consultants to perform a safety evaluation of Complainant's then current operations area. (Supplemental Exhibits 1 and 2). The evaluation concluded that Complainant's current operational area was not in conformance with the guidelines in FAA Advisory Circular 150/5390-2A ("A/C 150/5390-2A") and provided several recommendations for safer helicopter operations. (Supplemental Exhibit 11). Respondent implemented all of the recommendations that were within its immediate control, including erecting a perimeter fence, adding additional space for a pedestrian walkway, moving the fuel truck, changing parking, and redirecting the flow of traffic in the area. (Supplemental Exhibit 2).

During and after the evaluation, Respondent SAA and some of its Board members also had informal conversations with Complainant to inform Complainant that it would need to relocate its operations to a safer operational area of the airport. Specifically, Complainant was asked to move from its current operations area near the restaurant to a designated helipad

approximately 150 yards south of its then-current operational area. (Supplemental Exhibits 1, 2 and 3). Notwithstanding Respondent SAA's safety concerns and directives, Complainant refused to move its operations. (Supplemental Exhibits 1, 2 and 3). Complainant was formally notified by letter that it would need to move its operations on October 10, 2000. (Resp. Exhibit D). Complainant still refused. (Supplemental Exhibits 1 and 2, Resp. Exhibit F). The only operational restriction that Complainant complied with was the restriction on helicopter operations in the north hangar area, the site of the September 29, 2000 incident. (Supplemental Exhibit 2).

Despite Complainant's unwillingness to comply with Airport safety requirements, Respondent still made every effort to accommodate Complainant at the Airport. As a temporary compromise, Respondent established alternate arrival and departure procedures for the Complainant operations area. To comply with A/C 150/5390-2A, the alternate procedures required that Complainant hover taxi to/from its operations area to the designated landing pad. (Supplemental Exhibit 2,). Complainant did not consistently comply with these alternate procedures. (Supplemental Exhibit 2).

C. Complainant Had A History Of Noncompliance With Airport Policies Related To Advertising And Solicitation Of Customers On Airport Property.

Despite repeated verbal and written reminders, Complainant continued to conduct its business on the Airport with utter disregard for Airport policy regarding solicitation. (Resp. Exhibit T). Complainant continued to block competing tour operators' entrance ways, and solicit airport visitors on airport property in violation of Airport policy (Supplemental Exhibits 1, 36-40, 44). Because Complainant refused to execute a Commercial License, Respondent was unable to force Complainant to comply with its policies. Complainant's refusal to enter into a Commercial License further illustrates the need for such a commercial license requirement.

D. Complainant's Status Was That Of A Commercial Tour Operator Seeking A Private Hangar Lease At The Airport.

The FAA's concluded that "offering a 30-year lease term to other airport tenants making a substantial investment in the airport, but not to the Complainant, constitutes unjust

discrimination.” (DD at 37). The FAA based this conclusion on its characterization of Complainant as a “commercial operator,” rather than an “aeronautical operator” stating “the Complainant’s proposed investment and business use more closely align it with the [private hangar tenant]” noting that “Respondents failed to note the dissimilar investment and business aspects between the Complainant and the [commercial tour operators] who signed the renewable license agreement.” (DD at 28).

Yet, Respondents viewed the proposed hangar lease and commercial license transaction with Complainant as two separate, yet related, agreements. Complainant expressed an interest in a new hangar at the Airport and the Respondent SAA prepared a draft lease that was substantially similar to those offered to private hangar tenants. Unlike private hangar tenants, however, Complainant wished to conduct a commercial tour operation at the Airport. In accordance with standard policies related to commercial tour operators and in light of Complainant’s troubled history at the Airport, Respondents also required Complainant to execute the standard Commercial License. The lease would have been unaffected by the termination of the Commercial License. In the event of termination of the Commercial License, Complainant could have continued to use the hangar in a non-commercial capacity (like the rest of the long term private hangar tenants), or transferred its lease to another tenant. The Director erroneously classified the two separate agreements related to Complainant’s proposed activities at the Airport as one. Respondent only conditioned the long-term lease on the commercial license because Complainant had no incentive to sign the license otherwise. Without the license, Respondent SAA had no meaningful way of ensuring Complainant’s compliance with Airport safety directives and policy.

E. The Terms Of The Commercial License Agreement Were Mischaracterized In The Director’s Determination.

The Determination states that “the FAA Western Pacific Regional headquarters, Airports Division, erred in making its informal regional determination by accepting the license as a standard without fully examining the license terms and provisions in light of the Respondents’

Federal obligations.” (DD at 27). Yet, by failing to review sections of the Commercial License that provide cure periods, the Director made the same error. As will be discussed more fully below, sections 11, 24, 25 and 19 of the Airport’s standard Commercial License that was offered to Complainant contain “cure” provisions. (Compl. Exhibit 15). Under the general default Section 29.4 of the Commercial license, Complainant would only be in default if its noncompliance continued for a period 15 days *after* it received notice from Respondent SAA. (Compl. Exhibit 15, Section 29).

III. THE DETERMINATION IS NOT BASED ON FACTS IN THE RECORD

The Director’s Determination relied on facts not in the record, which directly and materially affected the conclusions of law made in the Determination. The Determination should be reconsidered or reversed in light of these material errors.

A. The FAA Wrongly Characterizes Respondent’s Offer For A Ten-Year Lease.

In evaluating Respondent’s efforts to accommodate Complainant at the Airport, the FAA states:

The Authority extended a counteroffer of a 10 year lease agreement with a five-year renewal option. Under the terms of the offer, the Complainant could build and own a hangar, and would also be required to sign a license.

(DD at 9). This conclusion is inconsistent with the facts presented in the administrative Record. In fact, the key term of the offer for a 10-year triple-net lease with a five-year renewal option (the “10-Year Lease”) was that Respondent SAA would build the hangar to Complainant’s specifications and lease the hangar to Complainant. (Supplemental Exhibit 3, Compl. Exhibits 22 and 25). Under the terms of the 10-Year Lease, Complainant would not be required to invest any of its own capital in constructing the hangar. The FAA’s assumption that the 10-Year Lease contemplated a \$300,000 investment by Complainants is entirely in error and without basis in the record.

This error is material. As the record shows, Respondent SAA acted in good faith to accommodate Complainant's activities on the airport. The Director initially concluded, however, that "the Authority's willingness to offer the Complainant only a 10-year lease with a five-year renewal option – when it had previously given other [private hangar tenants] 30-year leases – to be unjustly discriminatory." DD at 31. Yet, the comparison between the lease offers is inherently flawed. The Director finds that the 10-year lease offer (where other private hangar owners received 30-year leases) was unjustly discriminatory, however the Director fails to consider the substantially different terms of the lease offered to Complainant as compared to the terms of standard leases offered to private hangar tenants. Respondent SAA's offer was more than generous. Contrary to the Director's findings, Respondent offered to bear the risk of constructing a \$300,000 hangar. Respondent SAA has not offered to construct any of the other hangars for private hangar tenants with long-term leases. (Supplemental Exhibit 1).

More significantly, the Director's initial decision to equate the 30-year lease of airport space to private pilots who build their own hangars to a \$300,000 facility for a commercial tour operator built by Respondent SAA cannot be sustained. For Respondent SAA to treat Complainant in an unjustly discriminatory manner, it must share some characteristics with the group. *Nat'l Airlift Support Corp. v. Fremont County Board of Commissioners*, Docket No. 16-98-18, *Final Decision and Order*, 1999 FAA LEXIS 801 at *19-20 (Sept. 20, 1999).

Respondent SAA could not legally offer Complainant a 30-year term at the time it extended the 10-Year Lease offer. Complainant had not provided and SAA had not received more than a rough sketch of Complainant's proposed hangar or any evidence of Complainant's financial ability to finance the proposed hangar. When requested to provide financial information, Skydance ignored Respondent SAA's request and therefore, there is no evidence of Complainant's financial ability to finance the proposed hangar. (Resp. Exhibit P). Throughout this time, Complainant continued to conduct unsafe operations at the Airport in violation of airport policy and safety directives. (Supplemental Exhibits 1-3, 27, 32, 34, 35, and 37-42 and Resp. Exhibits T and S). Not only was the 10-Year Lease offer not analogous to the 30-year

leases offered to private hangar owners, but as will be explained more fully below, Respondent SAA was well within its authority to evict Complainant, to decline to offer Complainant any lease, to require a commercial license, to offer a short-term lease and license agreement, and to require a long-term lease with a short term commercial license. As Respondent was the party that would shoulder the risk of the \$300,000 hangar investment and lease it to a tenant with a history of noncompliance with airport policy, the 10-Year Lease offer was not unjustly discriminatory.

B. The FAA Wrongly Classified Complainant As A Private Hangar Tenant.⁷

The Director based his initial conclusion that Respondent SAA had “constructively granted an exclusive right” to private hangar tenants with long-term “preferential” leases on its characterization of Complainant as a private hangar tenant. (DD at 33). This was in error. No private hangar tenants are permitted to conduct commercial operations on the Airport.⁸ Complainant was a commercial tour operator seeking to construct a hangar facility out of which it would conduct commercial tour operations. In fact, Complainant’s proposal for a \$300,000 hangar facility was significantly different than that of a private hangar tenant and warranted different treatment. To establish that Complainant would be entitled to similar lease terms as the private hangar tenants, Complainant would need to show similarities with the other private hangar owners. As the FAA recognized in *Nat’l Airlift Support Corp. v. Fremont County Board of Commissioners*, Docket No. 16-98-18, *Final Decision and Order* (Sept. 20, 1999), similarities would include: “level of investment job creation, business type or other relevant factors.” *Id.* at * 20. The Director should reconsider his Determination based on this mischaracterization of Complainant for purposes of evaluating proposed lease terms.

⁷ See FN 1 for discussion of the FAA’s nomenclature in the Director’s Determination.

⁸ Under Respondent SAA’s minimum standards, hangars “shall be used exclusively for the storage of aircraft and no commercial operators shall be conducted out of such hangar unless authorized pursuant to a written agreement” (Compl. Reply Exhibit 2 at 5)

IV. APPLICATION OF FACTS AND LEGAL ANALYSIS

A. Respondents Requirements Were Consistent With Their Federal Grant Obligations And Necessary To Ensure Safe Operations At The Airport.

It is in the context of ongoing disputes between commercial tour operators described above and Complainant's unwillingness to comply with Airport safety requirements, that the Board implemented the requirement that all commercial tour operators execute a license agreement for commercial business activities at the Sedona Airport ("Commercial License").

1. Federal Grant Assurances

a. Economic Nondiscrimination

FAA Grant Assurance 22, *Economic Nondiscrimination*, requires an airport sponsor to make its airport available on reasonable terms, and without unjust discrimination. When a potential lessee requests better lease terms than its competitors, the Airport must be extremely careful not to provide superior terms to that potential lessee to avoid unjustly discriminating against its competitors. In *Nat'l Airlift Support Corp. v. Freemont County Board of Commissioners*, Docket No. 16-98-18, *Final Decision and Order*, 1999 FAA LEXIS 801, Complainant was denied the right to a lease under which it wished to develop land. The FAA found that the Airport could not grant the lease because the proposed lease would grant more favorable terms than the Airport had granted to similarly situated tenants. The FAA concluded that the grant of such favorable terms would be unjustly discriminatory against similarly situated commercial tenants. *Id.* at *18-20, 27. In general, violations of this grant assurance have arisen where an airport sponsor charges disparate rates to similarly situated airport operators. In this case, however, it is a question of access to the airport, not of disparate rates, that must be addressed.⁹

⁹ The purpose of federal grant assurances "is to protect the public interest in the operation of Federally obligated airports. The purpose is not to provide alternative or supplemental rights to those normally available to commercial tenants in disputes with their landlords, *i.e.*, negotiation or commercial litigation under applicable state and local laws." *Penobscot Air Service, Ltd. v. Federal Aviation Administration*, 164 F.3d 713, at 727 (1st Cir. 1999) The circumstances, timing and reliance upon the Part 16 Complaint and now the Determination

Disparate treatment of two similarly situated tenants does not amount to a *per se* violation of this grant assurance. Rather, the disparate treatment must “rise to some level of ‘unreasonableness’ before it may even be considered in the category of non-mandatory ‘exclusive right’ violations” *Penobscot Air Services, Ltd. v. Federal Aviation Administration*, 164 F.3d 713, 725-26 (1st Cir. 1999). Given the past history with Complainant and other commercial tour operators at the Airport as more fully discussed herein, Respondent SAA’s dual requirement of a Commercial License and a lease was not unreasonable.

b. Exclusive Rights

Related to the *Economic Nondiscrimination* grant assurance is FAA Grant Assurance 23 *Exclusive Rights*, which prohibits airport sponsors from conferring an exclusive right “for the use of the airport by any person providing, or intending to provide, aeronautical services to the public.” 49 U.S.C. § 47017(a)(4). The FAA’s exclusive rights policy provides guidance in the interpretation and application of this grant assurance. FAA Order 5190.1A, *Exclusive Rights*. Significantly, the policy recognizes an exception to the exclusive rights prohibition. It states in relevant part that “[u]nder some circumstances, a person may be denied the right to engage in an aeronautical activity at an airport for reasons of safety. The justification for such denials should be fully documented.” FAA Order 5190.1A, Section 9(d).

Respondents’ dual Commercial License and lease requirement was not unjustly discriminatory, and did not, as a result, violate the prohibition on exclusive rights. Assuming, *arguendo*, that the imposition of a commercial license on Complainant was different from the standards imposed on other similarly situated operators, because significant safety concerns with respect to Complainant’s continued operation at the Airport existed and were well documented, so it would not have violated the restriction on exclusive rights to impose additional standards on Complainant.

by Skydance in its state action is unmistakable. Skydance seeks to bootstrap itself into avoiding the statute of frauds by claiming that the FAA required SAA to give Skydance a thirty-year lease when the FAA clearly does not require such an obligation of airports.

2. *Imposition of the Commercial License was necessary to comply with Grant Assurance 19, Operation and Maintenance.*

The Determination correctly recognizes Respondent's responsibility under FAA Grant Assurance 19, *Operation and Maintenance*, to "operate and maintain the airport in a safe and serviceable condition and in accordance with reasonable minimum standards." DD at 34. The Determination also recognizes that a license agreement "is a reasonable legal instrument to fulfill this purpose" and that additional requirements may be imposed to ensure an adequate quality of service to the public. *Id.* Respondents have the prerogative to "impose conditions on users of the airport to ensure its safe and efficient operation" as long as the conditions are "relevant to the proposed activity, reasonably attainable, and uniformly applied." FAA Order 5190.6A, *Airports Compliance Handbook*, Section 3-17. The Commercial License requirements imposed by Respondent SAA met all of these requirements and should be upheld.

B. The Commercial License Requirements Are Not Unreasonable And Were Administered In A Nondiscriminatory Manner.

In *Aerodynamics of Reading, Inc. v. Reading Regional Airport Authority*, Docket No. 16-00-03, *Final Decision and Order*, 2001 WL 1085346 (F.A.A.) (July 23, 2001), the Associate Administrator found that Complainant must show that it requested, and was denied similar terms and conditions as other similarly situated airport users. Complainant must also show that it was denied for reasons that were unjustly discriminatory. *Id.* at *11. In *Aerodynamics of Reading*, the FAA found that a new policy with regard to new leases that is uniformly applied is not unjustly discriminatory, even though it means that newer tenants are required to have a security deposit, while previous tenants did not. *Id.* at *11.

1. *The timing and notice to tenants of the Commercial License requirement was not discriminatory.*

The Director's Determination suggests that the timing and notice to tenants of the Commercial License requirement was unreasonable and unjustly discriminatory. (DD at 35). In response to the September 29, 2000 Incident, Complainant and Red Rock were initially asked to execute a similar Termination of Lease and Revocable License in October, 2000. (Supplemental Exhibit 4). The board voted unanimously on October 23, 2000 to require all commercial tour

operators execute a commercial license.¹⁰ (Supplemental Exhibit 36). It took time for Respondent's counsel to prepare an appropriate form. Beginning in October 2000, only SkyTreks did not execute a commercial license with the renewal of its lease¹¹ because at the time its lease was up for renewal, the final form commercial license was still being prepared. SkyTreks subsequently ceased operations at the Airport before the commercial license was completed. (Resp. Exhibits S). Commercial tour operators generally were notified of the Commercial License requirement at the same time that they were notified that their commercial activity leases were up for renewal.

In *Aerodynamics of Reading*, the FAA concluded that a new security deposit requirement that applied only to new tenants, was not unjustly discriminatory in part because the revised policy requiring the security deposit is uniformly applied. *Aerodynamics of Reading*, Docket No. 16-00-03, *Final Decision and Order*, 2001 WL 1085346 at *11 (F.A.A.)(July 23, 2001). Likewise, Respondent SAA uniformly applies the commercial license requirement to all commercial tour operators at the Airport. It took less than 6 months for Respondents to finalize the commercial license agreement and fully implement its new policy, which is uniformly applied to all of Complainant's competitors at the Airport.

¹⁰ The safety of commercial tour operators and others using or visiting the Airport is of paramount concern to the Respondent and its Board Members. Under Arizona law, courts are reluctant to enforce a landlord's right to terminate a lease for non-monetary defaults, and leases are freely transferable. *Tucson Med. Ctr. v. Zoslow*, 147 Ariz. 612, 614, 712 P.2d 459, 461 (App. 1985). Additional restrictions, such as those imposed by the Commercial License are often necessary to give landlords control over their tenants' behavior.

Given the restrictive nature of Arizona landlord/tenant law, the termination provisions contained in the Commercial License as well as the other terms contained therein were, in the opinion of Respondent's counsel and the Board, essential to ensure that Respondent could control the behavior of its commercial tour operator tenants. (Supplemental Exhibits 1 and 4). Although Respondent agreed to consider nearly all of Complainant's substantive changes to the Commercial License, Complainant still refused to execute it.

In any case, the FAA's role in this proceeding is limited to determining Respondents' compliance with their federal grant obligations. It does not extend to interpretations of state law. See: *Kent J. Ashton v. City of Concord, NC*, Docket No. 16-00-02, *Director's Determination*, 2000 WL 1642458 at 13 (F.A.A.) (Oct. 16, 2000). (It would not be appropriate for FAA to decide whether a permit violated state statutes and/or public policy of the state.)

¹¹ One other operator whose lease has not come up for renewal has not yet signed the license. That operator is aware of the requirement and it is Respondent's understanding that it will execute the license upon renewal of its lease.

2. *Negotiations did not proceed to the point where the term of the Commercial License could be negotiated.*

The FAA concluded that Respondent SAA's "renewable two-year business license agreement...effectively denied the Complainant reasonable use and access" to the Airport for the purpose of constructing a hanger under a long-term lease arrangement. (DD at 37). The FAA seems to have based its opinion, in part, on the two-year term of the proposed license. Although the standard term of the Commercial License was two-years to coincide with the term of the standard commercial activity lease, negotiations with Complainant never progressed to the point where the term of Complainant's Commercial License was seriously negotiated. Complainant bases its complaint on the terms of the license agreement as they stood when negotiations had halted. No final terms had been reached.¹²

3. *The terms of the Commercial License are reasonable.*

Given the unprofessional and potentially unsafe environment at the Airport, the Board had grave concerns and believed that the Commercial License was necessary to ensure the safety of tenants, passengers and visitors to the Airport. (Supplemental Exhibit 4.) The FAA acknowledges that "[l]icenses...can be, and often are, used by airport sponsors to establish standards of conduct on the airport to ensure both good business practices and the safe and efficient operation." (DD at 27).

Complainant objects to certain provisions in the Commercial License. Specifically, Complainant alleges that the following provisions are unreasonable:

- License is terminable at the will of the Authority;
- License can be revoked with or without cause at the sole discretion of the Authority;
- Upon licensee's breach of the agreement, licensee had seven days to quit the premises, notwithstanding its lease term or the amount of capital investment; and
- Licensee requires the aeronautical operator to forfeit its appeal rights.

(DD at 26, Complaint at 7)

¹² As noted earlier, without the requested proof of bonding and financial ability to construct the hangar, Respondent SAA would not have entered into the Lease. At the time negotiations ceased, this information had not been provided to Respondent.

The FAA concluded that the Commercial License provisions “form an unreasonable requirement for access” and that licensees should have the right to cure defaults and cannot be required to waive their rights of appeal. However, the DD does not provide analysis as to why each of the specific provisions is unreasonable.

- a. The termination provisions contained in the Commercial License are standard in airport license agreements.

The first two of Complainant’s objections are virtually identical and could be summarized as a singular objection to the Authority’s right to terminate the Commercial License at its discretion. Unilateral termination is a common provision in commercial licenses and provides the licensor with more control over its facilities and the activities that occur on its premises.

Of 12 similar license agreements from other airports around the country including, Los Angeles, Philadelphia and Nashville, all of them have terms of two years or less. (Supplemental Exhibits 45-47). Five of them, including licenses with Buchanan Field Airport, the City of Philadelphia, Santa Maria Airport Authority, and Nashville Airport Authority are revocable in the sole discretion of the licensor. (Supplemental Exhibit 45). Four of them – Byron Airport (2), City of Philadelphia, City of Los Angeles – are either month-to-month or allow either party to terminate with 30-days’ notice. (Supplemental Exhibit 46). And, three of them have terms of one year. (Supplemental Exhibit 47).

In *Ashton v. City of Concord, NC*, the FAA reviewed a complaint by an airport tenant that a provision, similar to the one in Respondent’s Commercial License, allowing the City to terminate a permit without cause was unjustly discriminatory. Docket No. 16-00-01, 2000 WL

1642458 (F.A.A.) *Director's Determination* (Oct. 16, 2000). In *Ashton*, the Complainant had been evicted after repeated violations of airport and city requirements. The initial determination, which was upheld on appeal, noted that the "FAA's interest in a lease...is confined to its impact on the owner's obligation to the Federal Government." *Id.* at *13. The Director found that:

the 'non-voluntary lease termination provision,' by itself, does not establish a violation of Assurance 22, [Complainant] would have to demonstrate that the City exercised the 'non-voluntary lease termination provision' for unjust reasons or in an unjustly discriminatory manner.

Id. at *13.

Applying *Ashton* to the present case, the FAA would need to determine that the Respondents' Commercial License is either distributed or applied in a manner that is unjustly discriminatory. *Ashton* stands for the proposition that the FAA will not review the terms of a lease that allow an airport to evict a tenant at will. Such terms must be either distributed or applied in a discriminatory manner. Neither is the case here. *Id.* at *13.

Even assuming that the FAA may review the termination provisions of airport agreements, Director's initial Determination did not provide sufficient analysis to conclude that the terms of the commercial license were unjustly discriminatory. The Determination found that certain provisions in the commercial license "form an unreasonable requirement for access" and that licensees should have the right to cure defaults and cannot be required to waive their rights of appeal. (DD at 27). However, the Determination does not provide analysis as to why the specific provisions are unreasonable, in light of Complainant's long history of abuses and safety violations.

In *Kemmons Wilson, Inc. v. Federal Aviation Administration*, 822 F.2d 1041 (6th Cir. 1989), the United States Court of Appeals for the Sixth Circuit reviewed a petitioner's request for an evidentiary hearing in connection with alleged violations of Grant Assurance 23, *Exclusive Rights*. The court found that the petitioner was entitled to an evidentiary hearing in part because the FAA found that there were "no specific findings made on this issue, only a perfunctory, conclusory statement" approving the Airport's statement. *Kemmons* at 1046-47. The *Kemmons*

court also analogized to *Trailways of New England, Inc. v. C.A.B.*, 412 F.2d 926 (1st Cir. 1969)(Staley *dissenting*) where the Civil Aeronautics Board (“CAB”) dismissed a claim of discrimination without an evidentiary hearing. The *Trailways* court found that the CAB’s decision would be “meaningless without some factual determination” because “[specificity] is required, or *at least analysis directed to the precise issues.*” *Trailways*, 822 F.2d at 936 (emphasis added). While Respondents are not, with this motion, requesting an evidentiary hearing, the analysis is the same – the FAA must provide adequate rationale, based on a preponderance of reliable, probative and substantial evidence, in support of its conclusion that terms of the commercial license were unreasonable.

By failing to provide any rationale as to why the particular terms were unreasonable, the Director’s decision is materially deficient. Without such analysis, Respondents are unable to tailor an appeal to address the FAA’s concerns regarding the terms of the commercial license agreement, and the Director should reconsider his Determination or the Associate Administrator should remand the Determination to the Director to provide detailed rationale to support its conclusion.

The termination provisions of the Commercial License are commercially reasonable and consistent with the requirements that many other airports are imposing on commercial users. Since the FAA acknowledges that license requirements are within an airport sponsor’s authority, and since the Commercial License contained terms that were neither relevant to commercial tour operations, commercially reasonable, uniformly applied, and reasonably attainable. As such, the FAA should reconsider its position that the commercial license requirement imposed on Complainant is unjustly discriminatory.

b. The Commercial License as originally presented to Complainant contained cure provisions.

Complainant’s third objection to the Commercial License is also related to Section 3 of the Commercial License that requires the licensee to quit the premises within 7 days of notice of

breach of the Commercial License.¹⁷ The remaining portion of this objection, which Respondents interpret as an objection to a cure period in the License, is without basis.

Section 3 of the License provides that the Licensor may revoke the License upon breach of its terms, and upon such notice of breach or revocation, Licensee has 7 days to quit the premises. It is a well established principle of construction that the specific language will control over the general language. *Morales v. Trans World Airlines, Inc.* 504 U.S. 374, 384 (1992)(citing *Crawford Fitting Co. v. J.T. Gibbons, Inc.*, 482 U.S. 437, 445 (1987)).

Other sections of the Commercial License provide for cure periods, including Section 11, Rights for Noncompliance with Section 10, Section 24, Licensor's Termination Rights for Violation of Environmental Laws, Section 25, Insurance, and Section 29, Default. Read together, these specific sections give the Licensee the right to cure defaults. For example, Section 29.2 states that it is a default if the Licensee fails "to observe or perform any of the covenants, conditions or provisions of the License, if such failure continues for fifteen (15) days after written notice of such breach and demand for compliance." Given the totality of the Commercial License, this section provides Licensee a cure period if Respondent had terminated for default. These provisions limit Respondent SAA's right to unilaterally terminate the Commercial License without giving Licensee a right to cure any default. (Compl. Exhibit 15).

c. Limitation of liability provisions are common in license agreements.

Of the five similar license agreements where the licenses is revocable by the licensor, three of the licenses limit the licensor's liability for damages arising out of the termination. Additionally, one of the licenses that is mutually terminable limits the liability of both the Licensee and Licensor in the event that one party terminates with, or without, cause. Although not discussed in detail, the permit at issue in *Ashton* required the permittee to waive rights to recover damages against the city. *Ashton*, Docket No. 16-00-01, *Final Decision and Order*,

¹⁷ The reasonableness of Respondent's requirement for Complainant to sign a Commercial License concurrent with its Lease is discussed more fully in Section III.C. of this Motion.

2001 WL 865709 at *2 (Apr. 17, 2001). As noted above, the permit was found reasonable and not unjustly discriminatory. *Id.*

- d. The Commercial License requirements were reasonably attainable and administered uniformly

In making an informal determination regarding the reasonableness of the Commercial License, Mr. Tony Garcia, Airports Compliance Specialist, concluded that the Commercial License “applies to all aeronautical tenants, is reasonably attainable, and is being uniformly applied.” Mr. Garcia rightly concluded that the Commercial License is not unreasonable or unjustly discriminatory. (Comp. Exhibit 29).

Since its implementation, all commercial tour operator tenants currently at the Airport, with the exception of one whose lease has not yet come up for renewal, have executed the Commercial License. The uniform application of the Commercial License and the willingness of tenants to execute the Commercial License indicate that the standards are reasonably attainable.

4. *Respondent SAA agreed to consider almost all of Complainant’s substantive revisions to the Commercial License, which addressed the objections that Complainant raised in the Complaint.*

Respondents maintain that the Commercial License requirements were reasonable and not unjustly discriminatory. Nevertheless, in an effort to address Complainant’s specific concerns and cognizant of Complainant’s desire for a long-term lease, in September 2001, Respondent agreed to consider most of Complainant’s suggested changes to the standard Commercial License. The revised Commercial License was mutually terminable, clarified the cure periods, and eliminated the limitation on appeal rights. Even if the standard form of the Commercial License were considered “unreasonable” or “unjustly discriminatory,” the Commercial License offered to Complainant was not.

C. Additional Restrictions Are Appropriate Where A Prospective Tenant Does Not Comply With Airport Policy Or Safety Directives.

Even if the terms of the Commercial License or the dual requirement of requiring Complainant to execute a Commercial License concurrent with its long-term lease were found to

be discriminatory, they would not be *unjustly* discriminatory. Complainant's continuing disregard for established airport policies and operational restrictions continued to frustrate Respondent SAA and potentially endanger the safety of other commercial tour operators and visitors to the Airport. Where an airport tenant consistently fails to comply with airport standards, the FAA has upheld additional restrictions on that tenant, even if they differ significantly from those imposed on other similarly situated (and compliant) tenants.

In *Ashton*, the airport sponsor evicted a tenant after the tenant engaged in a pattern of conduct that was "inconsistent with the airport's rules in regulations." *Ashton*, 2001 WL 865709 at * 16 (Apr. 17, 2001). Specifically, the tenant had a pattern of trespassing in restricted areas and harassing visitors to the airport. In upholding the Director's Determination, the Associate Administrator stated that:

[T]he FAA would expect a sponsor to protect its tenants from nonaeronautical behavior that might have the effect of diminishing safety or reducing the efficient use of aeronautical facilities, impede the interest of the public in civil aviation or constitute a nuisance, through rules of conduct and reasonable terms in a lease.

Id. at * 21. Similarly, Complainant's unsafe conduct *vis a vis* other commercial tour operators at the Airport justify the imposition of additional standards on Complainant.

In *U.S. Aerospace, Inc. v. Millington Muni. Airport Auth. Millington, Tennessee*, a tenant had repeatedly failed to comply with the terms of its lease agreement and was seeking to become an FBO at the airport. Docket No. 16-98-06, *Director's Determination*, 1998 FAA LEXIS 1129 (Oct. 20, 1998). During the period that the complaint was pending, one of Complainant's employees struck an employee of a rival FBO with bolt cutters in a dispute over locks on the doors to the premises. *Id.* at *33-34. Following this incident, the airport evicted Complainant and terminated Complainant's lease. Under the circumstances, the FAA rightly concluded that the airport's failure to grant Complainant's application for general FBO status was "reasonable and consistent with its grant obligations." *Id.* at *42. While the altercations between Complainant and other commercial tour operators at the Airport have declined, Complainant's past history and ongoing noncompliance with airport policies and safety directives justifies

disparate treatment of Complainant as compared to private hangar owners. *See Jack H. Cox v. City of Dallas, Tx*, Docket No. 16-97-2 *Record of Determination*, 1997 FAA LEXIS 1530 (Oct. 24, 1997) (upholding a provision in an airport lease requiring that a certain individual not have any interest in the lease based on prior problems between the airport and the tenant.)

Indeed, Respondents would not have violated their grant assurances had they simply evicted Complainant based on previous incidents involving noncompliance with airport rules. The only reason that Respondent did not evict Complainant earlier was because Respondent SAA believed that the lease and license proposal would put a stop to Complainant's dangerous and unprofessional behavior. Under these circumstances, it is difficult to understand how imposing a short term Commercial License requirement on Complainant in addition to the terms of its lease would *unjustly* discriminate against Complainant or grant an exclusive right to other private hangar tenants at the airport.

D. The FAA's Rejection Of Respondents' Reasonable Justification For A Shorter Term Lease Is Not Supported By The Facts.

The FAA bases its rejection of Respondent's explanation for offering Complainant a lease with a term less than 30-years on three factors: (1) that Respondent SAA does not explain why it cannot obtain an agreement with Respondent Yavapai County for a lease extension, given Respondent Yavapai's "obligation to ensure its compliance with its Federal obligation to provide access to the airport on reasonable terms and without unjust discrimination," (2) that in the past, Respondent SAA has requested such extension; and (3) Respondent did not explain why it did not offer a lease to Complainant with a term that would run commensurate with the term of the lease between Respondent SAA and Respondent Yavapai (the "Airport Lease"). (DD at 32).

The FAA's finding is tantamount to affirmatively requiring that Respondent SAA ask Yavapai for an extension equal to any requested lease term by a potential tenant. This cannot be the law.

It is not the case that Respondent was unwilling to seek an extension of the term of the Airport Lease. To the contrary, at the time of negotiations between Respondent SAA and Complainant, Respondent SAA and Respondent Yavapai County were also in negotiations – and had been in negotiations for the prior two years – to extend the term of the Airport Lease beyond 2031. (Supplemental Exhibit 3). Negotiations for a new Airport Lease were protracted, but an agreement was reached and a new lease executed in February, 2003. (Supplemental Exhibit 46).

In any case, Respondent SAA's reluctance to offer the Complainant a full 30-year lease is certainly understandable given Complainant's bad behavior and unwillingness to execute a Commercial License.

Throughout the negotiations with Complainant, Complainant had a standing offer to execute the standard two-year lease and license agreement applicable to commercial tour operators at the Airport. The two-year agreements were offered to Complainant as a means to ensure that it could continue to operate on the Airport. The two-year lease and license would have provided Complainant exactly the same terms as its competitors at the Airport received.

more economic stability while it negotiated a longer lease with Respondent, if it so desired. *See Nat'l Airlift Support Corp. v. Fremont County Board of Commissioners*, Docket No. 16-98-18, *Final Decision and Order*, 1999 FAA LEXIS 801 (1999).

Respondent SAA offered Complainant a 10-year lease (with a 5-year extension) ("10-Year Lease Offer"). (Supplemental Exhibit 4, Compl. Exhibit 22) Unlike the 30-year lease offer where Complainant would be required to build the hangar and title would vest with Respondent SAA, under the terms of the 10-Year Lease Offer, *Respondent SAA offered to build the hangar for Complainant to Complainant's specifications* and lease it to Complainant. (Compl. Exhibits 22 and 25).

Contrary to Complainant's allegations, the only other time that Respondent SAA sought an extension of its Airport Lease was in connection with certain capital improvements and SAA bond issues.

V. RESPONDENTS ARE IN COMPLIANCE WITH GRANT ASSURANCES RELATED TO REVENUE DIVERSION AND WITH RESPECT TO CERTAIN DEED RESTRICTIONS

The FAA indicates that the Respondents may be in violation of their federal grant assurances related to revenue diversion. However, the FAA does not appear to have done more than a cursory review of the status of the lease between Respondents Yavapai and SAA, which at the time was being revised to eliminate any reference to revenues generated at the airport being used for certain off-airport purposes. (Supplemental Exhibit 3). An amended and restated lease was executed by and between the Respondents on February 1, 2003 and eliminated any reference to any revenues being used for general county purposes. (Supplemental Exhibit 46). Prior to the recent amended and restated lease, revenue was never diverted from the airport for non-aeronautical use.

The FAA also suggests that Respondents may be pursuing the use of airport property for non-aeronautical purposes in violation of certain deed restrictions. However, the FAA's appears not to have considered the fact that Section 749 of the Wendell H. Ford Aviation Investment Act and Reform Act for the 21st Century ("AIR-21") granted the Secretary of Transportation

(“Secretary”) the authority to waive any “term contained in the deed of conveyance dated October 31, 1956, by which the United States conveyed lands to the County of Yavapai, Arizona, for use by the county for airport purposes.” Respondent has and will continue to comply with all applicable restrictions relating to its use of the Airport for non-aeronautical purposes to the extent required by law and to the extent that the Secretary has not waived Respondents deed restrictions.

VI. CONCLUSION

For the foregoing reasons, the Respondents respectfully request that the Director reconsider his Determination. If the Determination is not reconsidered, the Associate Administrator should reverse the Determination and dismiss Complainant’s complaint, or in the alternative, remand the Determination to the Director for further consideration.




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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Motion For Leave To Supplement The Record And For Reconsideration Of The Director's Determination, And In The Alternative Appeal Of The Director's Determination ("Motion") on the following persons at the following addresses by personal delivery.

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ATTN: Frank San Martin
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Fax: (202) 267-5769

Marshall S. Filler
John Craig Weller
MARSHALL S. FILLER, P.C.
117 North Henry Street
Alexandria, VA 22314
Phone: (703) 299-0784
Fax: (703) 299-0254
Dated this 28th day of April, 2003.


Kenneth P. Quinn

Skydance Helicopters, Inc.
d/b/a Skydance Operations, Inc.

VS.

Respondents

FAA Docket No. 16-02-02

List of Supplemental Exhibits

160255749v1

Supplemental Exhibit	Description
1	Affidavit of Edward "Mac" McCall
2	Affidavit of Al Bieber
3	Affidavit of Allan D. Pratt
4	Affidavit of David D. Webster
5	Letter from AeroVista (2/12/1998)
6	Letter from Red Rock (4/6/98)
7	Letter from Red Rock (4/27/98)
8	Letter from Red Rock (8/19/98)
9	Letter from AeroVista (8/19/98)
10	Letter from Red Rock (3/15/99)
11	Heliport Airport Safety Evaluation (1999)
12	Notice to Operators re: airport policy (11/22/99)
13	Memo from Romm to McCall (2/1/00)
14	Letter from SAA to Commercial Leaseholders re: airport policy (2/21/00)
15	Letter from Red Rock (undated)
16	Red Rock Letter (5/6/00)
17	Letter to Skydance (5/22/00)
18	Police Report (5/17/00)
19	Memo from Romm to McCall (6/28/00)
20	Police Report (6/28/00)
21	Letter from Red Rock (6/30/00)
22	Letter from SAA Counsel to Skydance (7/11/00)
23	Letter from Red Rock (7/17/00)
24	Letter from SAA Counsel to Red Rock (7/21/00)
25	Letter from SAA Counsel to Skydance (7/20/00)
26	Memo from Romm to McCall (7/25/00)
27	Airport Accident Report (8/13/00)
28	Memo from Romm to McCall (8/24/00)
29	Letter from Red Rock to FAA (9/4/00)
30	Memo from Romm to McCall re: Skydance complaint (9/10/00)
31	Fax from Skydance to McCall (9/12/00)
32	Letter from Jessica Barnes (10/10/00)
33	Letter to Skydance (10/19/00)
34	Statement of Thomas Simpson re: Skydance Ops (10/24/2000)
35	Statement of Ken Romm: re: Skydance Ops (10/24/2000)
36	Memo from Romm to McCall (1/8/01)
37	Photo – Skydance personnel soliciting on-airport (7/29/01)
38	Photo – Landing in Unauthorized Area (7/30/01)
39	Photo – Skydance vehicles blocking walkways (8/01)
40	Photo – Skydance employees blocking walkways (8/26/01)

Supplemental Exhibit	Description
41	Memo to file (9-30-01)
42	Photo – Fuel Truck (10-14-01)
43	Letter to FAA (10/19/01) + exhibits
44	Letter to FAA (10/24/01)
45	Amended Airport Lease Agreement (2/1/03)
46	Sample licenses revocable with the sole discretion of the licensor
47	Sample Licenses that are month to month or allow either party to terminate with 30-days notice
48	Sample Licenses with terms of one year

Skydance Helicopters, Inc.
d/b/a Skydance Operations, Inc.

Complainant

vs.

Sedona Oak-Creek Airport Authority
and
Yavapai County, Arizona

Respondents

FAA Docket No. 16-02-02

I, Edward "Mac" McCall, being of lawful age, do hereby state upon my oath that the statements herein are true according to the best of my knowledge, information and belief:

1. I am the Airport Manager of Sedona Oak-Creek Airport Authority d/b/a/ the Sedona Airport Administration (“SAA”), and have held that position since July 16, 1999. The SAA operates Sedona Oak-Creek Airport (“Airport”).

2. Prior to working for SAA, I was Chief Operations Supervisor for Chicago O'Hare International Airport ("O'Hare") from 1983 to 1999. I began my employment at O'Hare in 1976 O'Hare and was regularly promoted prior to 1983.
3. In 1992, I completed all requirements as prescribed by the Board of Examiners of the American Association of Airport Executives and was granted the designation of Accredited Airport Executive.

II. The Safety Evaluation of Skydance Helicopters Inc., d/b/a Skydance Operations, Inc.'s ("Skydance") Operating Area.

1. Sedona Oak-Creek Airport is home to several commercial tour operators and private pilots, and is a valuable addition to our community. Over the past several years, the Sedona Oak-Creek area has seen dramatic increases in tourism and a rising demand for commercial air tours, such as those offered at the Airport. The SAA operates the Airport under a lease agreement with Yavapai County, which is the owner of the Airport.
2. Upon my arrival at the Airport, I observed questionable safety procedures and deceptive business practices by several commercial tenants at the Airport, including Skydance.
3. At the time of my arrival, Skydance was operating in an area near the restaurant. At this time I became concerned that Skydance's proximity to the restaurant, fuel trucks, and other facilities and equipment posed a significant safety hazard. In 1999, SAA hired

Bieber Aviation Consultants to perform a safety evaluation of the area used by Skydance for its operations on the Airport.

4. The evaluation concluded that the area that Skydance was using did not conform with FAA Advisory Circular 150/5390-2A, Heliport Design. Upon completion of the evaluation, Skydance was notified that it would need to move its operations to a safer area. Skydance did not move its operations. Formal notification was made on October 10, 2000.

III. History of Skydance at the Airport and the Commercial License Requirement

1. Skydance began operating as a commercial tour operator at SAA in 1994 under a lease agreement with SAA ("1994 Lease"). The most recent lease between SAA and Skydance expired by its terms on March 31, 2001, but was extended on a month-to-month basis as described herein.
2. Upon my arrival at SAA in 1999, I immediately was faced with restoring basic order and safety to the operations at the Airport. The safety of passengers, operators and the general public at the Airport and the prevention of deceptive and abusive commercial practices were my two top priorities.
3. I observed that at least three commercial tour operators were employing classic "bait-and-switch" tactics, contrary to Airport policy. For example, it was not uncommon for a commercial tour operator to advertise a low rate for a tour, but to insist on a much more

expensive tour upon the customer's arrival at the Airport. Deceptive signage was prevalent at the Airport.

4. At popular tourist areas, it was not uncommon for commercial tour operators to distribute NTSB accident reports of a competing company and to aggressively solicit and harass Airport visitors by alleging that a competing tour operator had unsafe pilots or aircraft.
5. I observed tour operators physically blocking walkways with personnel or vehicles in an attempt to direct customers to their company.
6. SAA regularly received complaints from customers and passengers regarding these unprofessional and deceptive practices.
7. Upon receipt of complaints from airport visitors or other commercial tour operators regarding operations on the Airport, I would call or meet with the relevant commercial tour operators to remind them of their obligation to comply with Airport policy and safety directives. I would follow-up, if necessary, with written demands for compliance.
8. From a safety standpoint, I observed attempted sabotage of competitors' operations and outright physical violence against personnel as well as aircraft.
9. In 2000, one of Skydance's pilots placed drywall screws in safety cones on the aviation ramp, which could have easily caused aircraft damage or injury to other tour operators.

In fact, the screws punctured the tire of another commercial tour operator's truck when it accidentally struck one of the cones.

10. On no less than five occasions, the Sedona Police Department was called to resolve disputes between tour operators at the Airport. In October, 2000, I became aware that two employees of two tour operators were carrying concealed weapons with them at the Airport.
11. The situation culminated on September 29, 2000, when instead of landing at its designated space, a helicopter operated by Skydance landed in front of an open hangar used by one of the other tour operators, Red Rock Biplane Tours ("Red Rock"). At the time, Red Rock was working on one of its planes in the hangar and the rotor wash from the helicopter blew dust and debris into Red Rock's hangar, causing damage to Red Rock's facility and equipment. A major altercation ensued and one of the Red Rock employees allegedly threw a piece of wood into the moving rotor blades and threatened the Skydance employee with a baseball bat. The police were called to address the situation, although no charges were filed at that time.
12. The incident on September 29, 2000 could have easily resulted in death or serious injury. On October 3, 2000, I informed the Board of Directors of SAA of the altercation and recommended a special meeting to address the situation.

13. On October 9, 2001, the Board met and recommended that Skydance's commercial activity lease ("Commercial Lease") not be renewed when it expired on March 31, 2002. I also consulted with SAA's counsel regarding SAA's ability to terminate commercial activity leases of other commercial tour operators for safety violations. Pursuant to advice of counsel, SAA took immediate action to require Red Rock to execute a Termination of Lease and Revocable License to continue operating at the Airport. Skydance was also asked to execute a Termination of Lease and Revocable License to be given an opportunity to continue operating at the Airport beyond the term of its Commercial Lease. Red Rock executed a Termination of Lease and Revocable License, but Skydance refused.
14. October 23, 2000, the Board formally adopted a resolution to require all commercial operators to sign a license agreement for commercial business activities at the Sedona Airport ("Commercial License") concurrent with their commercial activity leases at the Airport. The Commercial License was viewed by the Board as the only way of controlling the behavior of commercial tour operators at the Airport.
15. All commercial tour operators must execute a Commercial License concurrent with the renewal of their leases at the Airport. With the exception of Skydance and one other commercial tour operator whose lease has not yet come up for renewal, all commercial tour operators have since executed the Commercial License.

16. Since implementation of the Commercial License, the behavior of the commercial tour operators at the Airport has improved dramatically and there have been no further altercations between tenants. Complaints from customers have also been drastically reduced.

IV. Proposed Lease between Skydance and SAA for construction of a hangar at the Airport.

1. For safety reasons, Skydance was again directed in October, 2000 to use helipads to the south of the Airport, rather than the helipad near the restaurant and operations area and to use a different ramp for taxiing purposes. Skydance notified the SAA that it would not comply with these safety directives and threatened legal action if SAA did not renew the lease and/or imposed and additional safety restrictions.
2. SAA actively attempted to work with Skydance to address Skydance's concerns. It was then that Skydance expressed an interest in constructing a hangar at the Airport under a long term lease with SAA. SAA agreed to initiate negotiations with Skydance for a 30 year lease pursuant to which Skydance would construct a hangar at the Airport. In exchange, Skydance agreed to comply with Airport safety directives and move its operations to the designated area. On November 1, 2001, I sent a letter to Skydance outlining the terms of our understanding.
3. To accommodate Skydance's operational needs during lease negotiations, SAA agreed to allow Skydance to continue to operate at the Airport on a month-to-month basis under the

terms of Skydance's existing lease. Skydance was required to comply with interim approach and take-off procedures, although did not consistently do so.

4. During the course of the lease negotiations, SAA informed Skydance of the new license agreement requirement. Although Skydance would be constructing a hangar, because it desired to continue operating commercial tours out of the Airport, Skydance was informed that concurrent with the execution of the 30 year lease, it would also need to execute a license agreement. Skydance informed SAA that it would not enter into any license agreement, regardless of form or content, as Skydance believed that the requirement was discriminatory.
5. At the time of lease negotiations, the Airport's lease with the county was due to expire in May of 2031, and in July of 2001, SAA informed Skydance that a 30 year lease was no longer possible since SAA did not have 30 years remaining on its lease with Yavapai County. SAA asked Skydance to reconsider the standing offer for a standard two year lease and license agreement so that Skydance could continue to operate at the Airport. SAA also offered to build the hangar for Skydance and lease it to them under a 10 year lease, provided that Skydance would also sign an operating license. SAA has not made a similar offer to any other commercial tour operator or private hangar tenants at the Airport.

6. In an effort to address Skydance's concerns related to the license agreement, SAA offered to consider most of Skydance's suggested changes to the Commercial License agreement, but again Skydance rejected SAA's offers.
7. At all times, SAA sought to accommodate Skydance as a tenant at the Airport and acted in good faith to reach an agreement with Skydance regarding its operations. Despite good faith efforts by SAA, Skydance did not move its operations from its temporary operating area to the safer helipads on other parts of the Airport.
8. Skydance did not consistently comply with alternate approach and departure procedures.
9. Because safety has been and continues to be a paramount concern for SAA, SAA evicted Skydance despite a potential loss to the Airport of approximately \$ 70,000 in annual revenue from Skydance.

FURTHER, affiant sayeth naught.

Dated: April __, 2003

Edward "Mac" McCall

**STATE OF CALIFORNIA)
LOS ANGELES COUNTY)**

SUBSCRIBED AND SWORN TO before me this __ day of April, 2003.

Notary Public

State of California
County of Los Angeles

My Commission Expires: _____

FURTHER, affiant sayeth naught.

Dated: April 28th 2003



Edward "Mac" McCall

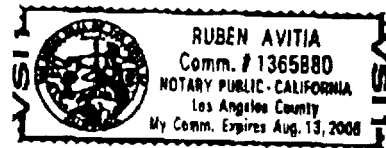
STATE OF CALIFORNIA)
LOS ANGELES COUNTY)

SUBSCRIBED AND SWORN TO before me this 28th day of April, 2003.



Notary Public

State of California
County of Los Angeles



My Commission Expires: Aug. 13, 2006

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**

Skydance Helicopters, Inc.
d/b/a Skydance Operations, Inc.

Complainant

vs.

Sedona Oak-Creek Airport Authority
and
Yavapai County, Arizona

Respondents

FAA Docket No. 16-02-02

AFFIDAVIT OF AL BIEBER

I, Al Bieber, being of lawful age, do hereby state upon my oath that the statements herein are true according to the best of my knowledge, information and belief:

I. Personal Information

1. I am member of the Board of Directors of the Sedona-Oak Creek Airport Authority d/b/a/ the Sedona Airport Administration ("SAA"), and have held that position since February 21, 2000. The SAA operates Sedona Oak-Creek Airport ("Airport").
2. I operate an aviation consulting business, Bieber Aviation Consultants, and provide advice to a variety of aviation clients on matters related to air carrier and general aviation operations and flight training.

3. Prior to becoming a Board member of the SAA and founding Bieber Aviation Consultants, I worked for the Federal Aviation Administration ("FAA"). I began my service at the FAA at the Fargo, ND General Aviation District Office as an Operations Inspector and Principal Operations Inspector from 1976 to 1978.
4. I held the position of FAA Academy Aviation Safety Inspector Instructor, General Aviation Fixed Wing, Helicopter and Air Carrier Operations at the FAA Academy Flight Standards Branch from 1978 to 1983. I instructed in general aviation indoctrination, fixed wing and helicopter courses. In the helicopter course I taught Heliport Design Guide criteria to new inspectors. I taught in the Air Carrier Section approximately the last two years of my tenure at the FAA Academy. My areas of responsibility included Air Carrier Inspector Indoctrination courses, Course Management for the Convair 580 courses, and DC-9 and CV-580 flight training courses for Aviation Inspectors.
5. From 1983 thru 1998, I served in the Phoenix Flight Standards District Office as a Principal Operations Inspector and a Supervisory Air Carrier Operations Inspector. I was responsible for America West Airlines in the Phoenix Certificate Management Office. I retired in August, 1998.
6. Prior to working for the FAA, I worked as a flight instructor in airplanes and helicopters. I was a chief pilot, chief flight instructor, FAA Aviation Safety Counselor and a pilot for a certificated air carrier.

7. I hold the following pilot certificates:

Airline-Transport Pilot – Airplane Single and multiengine land type ratings DC-9, B-737, CE500, CV-A340, and CV-A440

Commercial Privileges – Rotorcraft - Helicopter and Glider

Flight Instructor – Airplane: single and Multiengine; Rotorcraft Helicopter

Ground Instructor – Advanced and Instrument

II. Safety Concerns Regarding the Area Used by Skydance

1. In 1999, I was hired by SAA as a safety consultant to conduct a Heliport Design Evaluation of the area used by Skydance Helicopters at Sedona Airport ("Evaluation"). The Evaluation was conducted between May 22, 1999 and June 25, 1999.
2. At the time of the Evaluation, Skydance had been operating near the restaurant in the area described in my Evaluation and had been operating in the area since January 1998.
3. The Evaluation was conducted in accordance with the requirements of FAA Advisory Circular 150/5390-2A, Heliport Design ("Advisory Circular"). In accordance with the Advisory Circular, the final approach and takeoff area ("FATO") used by Skydance was based on the largest helicopter that used the area, a Bell 206L, and the altitude of the heliport (4,827 feet above sea level).

4. The Evaluation concluded that the area did not comply with FAA guidelines related to the clearance from obstructions in the transition area. A restaurant on the northwest side of the FATO extended into the 2:1 obstruction area and the FATO contained a parked fuel truck, an aircraft and two other vehicles. In addition, three feet of paved surface that was used as a helipad was within the obstruction free area adjacent to the FATO.
5. The Evaluation also concluded that if the area were to continue to be used as a helicopter operations area, changes would be needed to ensure that vehicular and helicopter traffic did not occur simultaneously within the area. The Evaluation also recommended clearly defined markings for the taxiway and helicopter parking area were necessary and that all obstructions must be removed to allow a clearance of 20 feet from any part of the helicopter. Finally, the Evaluation recommended certain improvements for passenger control, including a fence and walkway.
6. The Airport implemented the Evaluation's recommendations, which included: erecting a fence, adding space for a pedestrian walkway, moving a fuel truck, changing parking patterns, and redirecting traffic.
7. Skydance is required to comply with 14 C.F.R. § 91.126(b)(2): "Each pilot of a helicopter must avoid the flow of fixed-wing aircraft." During my safety evaluation, it became apparent that southbound departures from Skydance's operations area that crossed the active runway could provide a potential conflict with fixed-wing aircraft.

8. Following completion of the Evaluation, the Airport followed the recommendations and established a published procedure for helicopters to minimize conflicts with fixed-wing aircraft.
9. During and after the Evaluation, I had conversations with Michael Cain of Skydance regarding Skydance's operations area. I informed Mr. Cain that Skydance would need to move its operations in order to comply with my findings. Mr. Cain expressed unwillingness to move Skydance's operations.
10. Skydance was formally notified by letter on October 10, 2000 that it would need to comply with Airport safety directives and relocate its operations to a designated helipad located about 150 yards south of its then existing operations area.
11. Because Skydance still refused to move its operations, as an interim measure, SAA established alternate arrival and departure procedures. Skydance did not consistently comply with the alternate arrival and departure procedures.
12. Despite the ongoing safety concerns, Skydance refused to move its operations, which would put it in compliance with AC 150/5390-2A, and which would provide a higher level of safety for passengers, Airport users and the general public.
13. Notwithstanding Airport safety requirements and procedures, Skydance did not move its operations and continued to use the same area until Skydance was evicted from the Airport

on November 13, 2001. No helicopter operations are permitted in the area formerly used by Skydanc. The area is still used by the biplane operator.

FURTHER, affiant sayeth naught.

Dated: April 28, 2003

Alvin L. Bieber

Al Bieber

**STATE OF ARIZONA)
YAVAPAI COUNTY)**

SUBSCRIBED AND SWORN TO before me this 28 day of April, 2003.

Nancy M. Snyder

Notary Public



Notary Public State of Arizona
Yavapai County
Nancy M. Snyder
Expires November 27, 2005

State of Arizona
County of Yavapai

My Commission Expires: November 27, 2005

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**

Skydance Helicopters, Inc.
d/b/a Skydance Operations, Inc.

Complainant

vs.

Sedona Oak-Creek Airport Authority
and
Yavapai County, Arizona

Respondents

FAA Docket No. 16-02-02

AFFIDAVIT OF ALLAN D. PRATT

I, Allan D. Pratt, being of lawful age, do hereby state upon my oath that the statements herein are true according to the best of my knowledge, information and belief:

I. Personal Information

1. I was the Vice President of the Board of Directors of the Sedona Oak-Creek Airport Authority d/b/a Sedona Airport Administration ("SAA"), and held this position from January 1999 Until January 2003. The SAA operates Sedona Oak-Creek Airport ("Airport").
2. I became a member of the Board of Directors in April, 1998 and ceased being a member when I moved to Nevada. Officially, my term ended on December 31, 2002. I am a retired B767/757 Captain from United Airlines. While at United Airlines, I was a

training Captain, Standards Captain, flight instructor and FAA designated examiner on the Boeing 767/757. I began flying small airplanes in October of 1959. I currently have over 12,000 flight hours and hold an Airline Transport certificate, single and multi-engine land, Boeing 737/757/767 ratings and a Commercial Glider rating.

II. Lease and license requirements for private hangar lessees and commercial tour operators.

1. Two types of users operate at Sedona Airport: commercial tour operators and private pilots. The SAA uses two primary lease forms for users of the airport – one for commercial tour operators and one for private hangar owners and lessees.
2. The current form lease for private hangar owners (“Private Hangar Lease”) contain initial terms ranging from 1 to 32 years, and were limited by the term of SAA’s then current lease between SAA and Yavapai County, which was due to expire on May 1, 2031. Private Hangar Leases prohibit lessees from conducting commercial operations at the Airport and contain terms tailored to use of a private hangar.
3. The form commercial tour operator lease (“Commercial Lease”) is for an initial term of two years and may be renewed, upon mutual agreement and provided that lessee is in compliance with the its terms, for an additional one year period.
4. Skydance Helicopters, Inc. d/b/a Skydance Operations, Inc. (“Skydance”) was one of the first commercial tour operator that approached SAA with a proposal to finance and build its own hangar on the Airport under the terms of a long-term lease. Skydance would be

operating at the Airport as both a commercial tour operator and commercial hangar owner.

5. To protect the safety of all users of the Airport, SAA requires all commercial operators to execute a license agreement for commercial business activities at the Sedona Airport ("Commercial License").
6. Skydance informed SAA that it would not enter into any license agreement, regardless of term, form or content, as Skydance believed that the requirement was discriminatory.
7. At the time of lease negotiations, the Airport's lease with the county was due to expire in May of 2031. Because the terms of the lease had not been agreed upon and because Skydance refused to sign a Commercial License, in July of 2001, SAA informed Skydance that a 30 year lease was no longer possible since SAA did not have 30 years remaining on its lease with Yavapai County.
8. Skydance again rejected SAA's standing offer for a standard two year commercial lease and Commercial License, which would have allowed Skydance to continue operating at the Airport. As a further accommodation, SAA also offered to build the hangar for Skydance and lease it to them under a 10 year lease, provided that Skydance would also sign a Commercial License.

9. Despite good faith efforts by SAA, Skydance did not comply with Airport safety directives and refused to move its operations from its temporary operating area to the safer helipad.
10. During the time that SAA and Skydance were attempting to resolve this issue and for the previous two years, SAA and Yavapai County were in discussions to extend the master lease between Yavapai County and SAA. Agreement was reached in early 2003 when a new lease was executed. The new lease allows SAA to extend the lease until 2050 and deleted any provisions that could be construed as allowing revenue diversion in violation of federal grant assurances. Additionally, although the original 1971 lease (as amended in 1981) contained language that would arguably permit revenue diversion, at no time has revenue generated at the Airport been used for off-Airport purposes. At the time that the original leases were executed, there were no federal prohibitions on the use of Airport revenue off-Airport.

FURTHER, affiant sayeth naught.

Dated: April 28, 2003



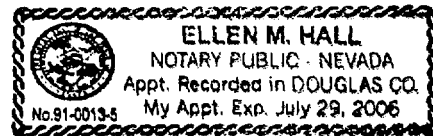
Allan D. Pratt

STATE OF NEVADA)
DOUGLAS COUNTY)

SUBSCRIBED AND SWORN TO before me this th28 day of April, 2003.

 4/28/03

Notary Public



State of Nevada
County of Douglas

My Commission Expires: 7-29-06

Skydance Helicopters, Inc.
d/b/a Skydance Operations, Inc.

vs.

Sedona Oak-Creek Airport Authority
and
Yavapai County, Arizona

FAA Docket No. 16-02-02

I, David D. Webster, being of lawful age, do hereby state upon my oath that the statements herein are true according to the best of my knowledge, information and belief:

1. I am the President of the Board of Directors ("Board") of the Sedona Oak-Creek Airport Authority d/b/a Sedona Airport Administration ("SAA"), and have held this position since January, 1999. I have been a Board member since 1998. The SAA operates Sedona Oak-Creek Airport ("Airport").

2. I have been a pilot for over 40 years and was the owner of a fixed based operator in Elkhart, Indiana for approximately 5 years. I am aware of FAA safety requirements for Sedona Airport.

II. The Commercial License requirement was necessary to ensure the safety of airport users, passengers and the general public

1. With increases in tourism in Sedona over the last several years, the demand for commercial air tours has also risen, and competition for customers is fierce.
2. Between the time I became a member of the Board and the time that SAA implemented a requirement that commercial tour operators execute a license agreement for commercial business activities at the Sedona Airport ("Commercial License"), the conduct of the commercial tour operators was often potentially unsafe, deceptive and unprofessional.
3. Some commercial operators would aggressively solicit customers from tour busses at scenic overlooks and other tourist areas. It was not uncommon for a tour operator to advertise a low price for an air tour but to process the customer's credit card for an amount well above the advertised price.
4. Commercial tour operators would distribute NTSB accident reports for their competitors and take steps to physically prevent customers from accessing their competitor's location on the airport. Operators would make allegations that their competitors had unsafe pilots and/or aircraft in an attempt to gain passengers for themselves.

5. In addition to the deceptive commercial practices, there were serious skirmishes between the employees of the commercial tour operators at the airport. On several occasions, the Sedona Police Department was called to diffuse arguments between tour operators.
6. This unsafe behavior continued and included attempts to sabotage a competitor's aircraft operations, which clearly posed a danger not only to the competing tour operator, but to passengers and others nearby. Some commercial tour operators began carrying concealed weapons on the premises.
7. On September 29, 2000, a helicopter operated by Skydance Helicopters, Inc., d/b/a Skydance Operations, Inc. ("Skydance"), landed with customers aboard in front of an open hangar in use by one of its competitors, Red Rock Biplane Tours ("Red Rock"), instead of its designated landing area.
8. At the time, the competitor was painting a wing on one of his aircraft and tried to signal the pilot to land elsewhere. The Skydance pilot proceeded to land in front of the open hangar, blowing dust and debris into the open hangar. One of the competitor's employees allegedly threw a piece of wood into the moving rotor blades and threatened the Skydance employee with a baseball bat. The police were called to address the situation, and it was extremely fortunate that no one was seriously injured by the flying debris or otherwise.

9. As a result of these incidents, the Board was gravely concerned for the physical safety of commercial tour operators, passengers and the general public at the Airport. The Board began investigating means to ensure safe and courteous operations at the Airport. On October 10, 2000 and pursuant to the advice of counsel, SAA required Red Rock to execute a Termination of Lease and Revocable License to continue operating at the Airport. Skydance was also asked to sign a Termination of Lease and Revocable License for the SAA to consider allowing Skydance to operate at the Airport beyond the term of its commercial activity lease that was due to expire on March 31, 2001. Red Rock signed the Termination of Lease and Revocable License, but Skydance refused.
10. The Termination of Lease and Revocable Licenses were interim emergency requirements while the Board prepared license agreement for commercial business activities at the Sedona Airport ("Commercial License") that would be applicable to all commercial tenants. The Board formally adopted the Commercial License in October 23, 2000 and requires all commercial tenants to execute it concurrent with the renewal of their respective leases.
11. To date, all commercial tour operators, with the exception of Skydance and one other operator whose lease has not yet come up for renewal, have executed the Commercial License.

12. Since implementation of the Commercial License requirement, unsafe operations and behavior have decreased dramatically. Deceptive signage and business practices have also been greatly reduced.
13. It is the position of the Board that the Commercial License requirement remains absolutely essential to ensure the safety of all users of Sedona Airport.

FURTHER, affiant sayeth naught.

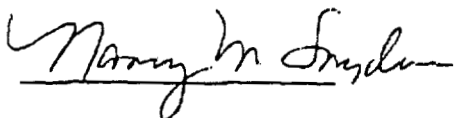
Dated: April 28, 2003



David D. Webster

STATE OF ARIZONA)
YAVAPAI COUNTY)

SUBSCRIBED AND SWORN TO before me this 28 day of April, 2003.



Notary Public



Notary Public State of Arizona
Yavapai County
Nancy M. Snyder
Expires November 27, 2005

State of Arizona
County of Yavapai

My Commission Expires: November 27, 2005

AeroVista

FLIGHT INSTRUCTION - RENTALS

SCENIC TOURS - PILOT SHOP

Sedona Airport

290 Shrine Road #18

P.O. Box 1503

Sedona, AZ 86339

520-282-7768 Phone

520-282-7708 Fax

February 12, 1998

Austin Wiswell

Sedona Airport Administration

Air Terminal Drive

Sedona, AZ 86336

Dear Austin,

During the past four months, our company has been the victim of numerous acts of vandalism. On separate occasions, the wires on our electric car have been cut, our tires have been flattened, two signs have been physically destroyed (broken into pieces), several times our signs have been thrown into the trees adjacent to the Shrine and, most recently, our most expensive sign has been stolen. Our pilots and passengers have been taunted and insulted in person and over the radio unicom. On many occasions, as a certain biplane taxis by our pilot shop, obscene gestures are directed to our employees and passengers from the rear cockpit.

Prior to the most recent occurrences, when we tried to legally occupy the Commercial Activities Building, we were physically prevented from doing business there and were threatened with violence. Two of our female employees were sexually harrassed. Our signs were removed from the building and our sales literature was stolen. We pay for a service to stock rack cards in various places around Sedona including the CAB. The cards are never seen in the CAB though we are assured by the supplier that they are regularly stocked.

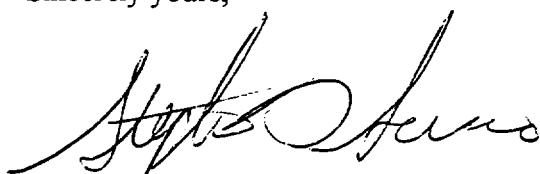
I am unaware of any similar acts taking place elsewhere on the airport or being directed to other companies. I can only assume therefore that these acts are being deliberately directed at our company. The recent theft of our property represents a very serious escalation. We are extremely concerned about what will happen next. We have real concerns that our aircraft will be targeted.

Our lease assures us peaceful enjoyment of our property. I assure you, our experience here is anything but peaceful and certainly less than enjoyable.

Since our arrival on the airport, we have both philosophically and in deed practiced good business offering quality products and services at fair prices. We believe that more business on the airport is good for everyone. We regularly and gladly refer customers to other operators on the field when we cannot meet their needs or desires.

Our desire is to remain here in Sedona. We are sincerely asking your assistance in researching and resolving these issues.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Stephen D. Sacco". The signature is fluid and stylized, with a large initial 'S' and a long, sweeping underline.

Stephen D. Sacco
AeroVista



Located at the Sedona Airport: 1225 Airport Rd. Sedona, AZ

Mailing Address: 770 Sunshine Lane Sedona, AZ 86336

(520) 204-5939 • 1-888-TOO-RIDE • (Toll Free)

4/6/98

Sedona Airport Administration
Attention: Austin Wiswell & Board Members
235 Air Terminal Drive
Sedona, AZ 86336

Dear Sirs,

Red Rock Biplane Tours is requesting for Aerovista's property and employees to remain 50 feet away from our hangar facility.

Sincerely,

Larry Brunner, President
Red Rock Biplane Tours

c.c. Gary Kazragis

Red Rock Biplane Tours
Located at 1225 Airport Road Sedona, AZ 86336
(520) 204-5939 Fax: (520) 204-6403

Sedona Airport Administration
Attention: Austin Wiswell
235 Air Terminal Drive
Sedona, AZ 86336

4/27/98

Dear Austin,

This letter will serve as our formal written notice before bringing law enforcement into this matter. At this time Red Rock Biplane Tours is informing you of the ongoing harassment our wash attendant (s) receive from Aerovista. Our wash attendant, Lex and myself both witnessed Aerovista turning the water off twice on two separate occasions today as we were trying to wash our aircraft. We are merely trying to keep to ourselves and conduct business. All of our employees have been instructed to phone the police if they experience any further harassment from Aerovista.

Sincerely,



Eric Brunner
Chief Pilot

c.c. Larry Brunner
Gary Kazragis



Located at the Sedona Airport: 1225 Airport Rd. Sedona, AZ

Mailing Address: 770 Sunshine Lane Sedona, AZ 86336

(520) 204-5939 • 1-888-TOO-RIDE • (Toll Free)

8/19/98

Sedona Airport Administration
Attention: Austin Wiswell
235 Air Terminal Drive
Sedona, AZ 86336

Dear Austin,

At 9:09am this morning, August 19, 1998, I was taxiing to runway 21 for departure on a tour. Upon approaching the end of the runway, Jack Huffman of Aerovista was on his deck pointing a gunlike figure at our aircraft, N43064. This letter is to notify you of the ongoing harassment and blatant interference with a flight crew- a direct violation of FAR 91-119.

Sincerely,

Eric J. Brunner, Pilot

cc. Gary Kazragis

AeroVista

FLIGHT INSTRUCTION • RENTALS
SCENIC TOURS • PILOT SHOP
Sedona Airport
290 Shrine Road #18
P.O. Box 1503
Sedona, AZ 86339

520-282-7768 Phone
520-282-7708 Fax

August 19, 1998

Sedona Airport Administration
ATTN: Mr. Austin Wiswell
235 Air Terminal Drive
Sedona, AZ 86336

Dr. Mr. Wiswell;

I am in receipt of a copy of a letter dated 8/19/98 from Eric Brunner of Red Rock Biplane Tours which you provided to me on the date hereon. The sum and substance of the letter is an absolute lie and is further evidence of the extent to which Mr. Brunner goes to advance his cause and to cause libelous damage to this company.

Sincerely yours,



Jack Huffman

cc by fax: Red Rock Biplane Tours

cc. Russell Moker Esq.



Located at the Sedona Airport: 1225 Airport Rd. Sedona, AZ

Mailing Address: 770 Sunshine Lane Sedona, AZ 86336

(520) 204-5939 • 1-888-TOO-RIDE • (Toll Free)

March 15, 1999

Mr. David Webster
Mr. R. Austin Wiswell, Mgr.
Sedona Airport Administration
Sedona, AZ 86336

Dear Sirs:

This letter is to keep you informed of the continued harassment that my company and employees receive from Aerovista owners. In the past we have let many instances go by without documenting them due to the childish nature of their actions. We do not intend on continuing with this attitude of letting things go; without informing you. I have provided Mr. Wiswell a video tape that clearly shows on three different days close together of our continued harassment, i.e. interference with a flight crew in the performance of its duties. The FAA has taken a dim view of these actions, because of the possibility that they can cause an accident to occur. Now, (Mar 13, 1999) a few days later our hanger door is blocked by autos and we can not place our aircraft in the hanger for nearly an hour at closing time. A police report is enclosed for your files.

I am asking that you take this under advisement upon future negotiations with the Aerovista owners for further concessions on this airport.

Sincerely,

Larry L. Brunner
Red Rock Biplane Tours

SEDONA AIRPORT SAFETY EVALUATION

Submitted by
AL BIEBER

SAA AIRPORT SAFETY CONSULTANT

GENERAL SUMMARY

This report covers interviews and surveillance activities conducted from 5-22-99 thru 6-25-99. Safety interviews were conducted with the following operators:

Aero Vista

AHA

Air Safari

Red Rock Biplane

Sky Dance Helicopters

Sky Trek

Westwind Aviation

Red Rock Aviation

Random surveillance activities were conducted which included air and ground observations. In general cooperation was good.

At this time, two additional flight observations remain. I will submit an addendum to this report covering these flights.

AIRPORT REVIEW FINDINGS

Operational areas are subject to intrusion by ground vehicles. On two occasions, unauthorized ground vehicles were observed transiting the taxi and runway areas. One of the vehicles was a jeep rental which was having difficulty finding its way out of the airport.

RECOMMENDATION

Gates with key or card access should be installed , which would allow only authorized vehicles to the operational area.

The AWOS information should contain only the essential airport safety information. Reference to noise sensitive information could be handled by Unicom and is currently published in the "Airport/Facility Directory" of the U. S. Government Flight Information Publication.

The current runway use procedures which recommend landing on runway 03 with winds less than ten knots and concurrent use of runway 21 for takeoff provide a seriously potential safety hazard. This procedure is not published in the "Airport/Facility Directory". The consensus of the pilots/operators interviews did not advocate the current procedure.

The airport procedure should be changed to require takeoff and landing in the same direction. The procedure which is applicable should be published in the "Airport/Facility Directory".

Currently the traffic pattern altitude is published at 5827 feet in the "Airport/Facility Directory".

The published pattern altitude should be changed to 6000 feet for non-turbine powered aircraft and 6,500 feet for turbine aircraft. This would allow more altitude above ground level (AGL) for single engine aircraft safety and would also restrict noise levels for both types of aircraft. Cardinal altitudes can be more precisely flown and are more user-friendly.

A published departure and arrival route should be established for helicopters.

The Red Rock Biplane/Sky Dance Helicopter ramp is entirely too congested. There is limited supervision of passengers and spectators on this ramp during simultaneous operations. During my surveillance activities, I observed unattended spectators taking pictures in close proximity to a rotor system, which was running.

The biplane's prop blast throws pebbles toward spectators and vehicles. During one departure, a step used for boarding the biplane, was blown into the fence north of the ramp.

During one surveillance activity, Sky Dance was operating two helicopters on the ramp. A departing helicopter had to go around a fuel truck in close proximity to the building while leaving the ramp area.

Develop a plan with the operator to relocate Sky Dance Helicopters to an area closer to the helipads.

Resurface the biplane area and provide a fence for passenger and spectator control.

FUEL FACILITY REVIEW FINDINGS

The fuel storage area is fenced and properly placarded. Fueling procedures were conducted in accordance with current Advisory Circular guidelines. The fuel storage areas are well maintained and free of combustible materials.

The fueling personnel seemed well versed in good operating practices. They wore non-static producing clothing. The individual I worked with was generally aware of spill procedures and the location of fuel spill materials.

RECOMMENDATION

A refresher on fuel spill and fire fighting procedures should be addressed on an reoccurring basis; i.e. yearly.

The daily fuel contamination procedures for the Sky Dance helicopter fuel truck was not in accordance with acceptable standards: i.e. fuel was drained directly into a five gallon pail, which was approximately half full. The five gallon pail was left overnight in the open uncovered.

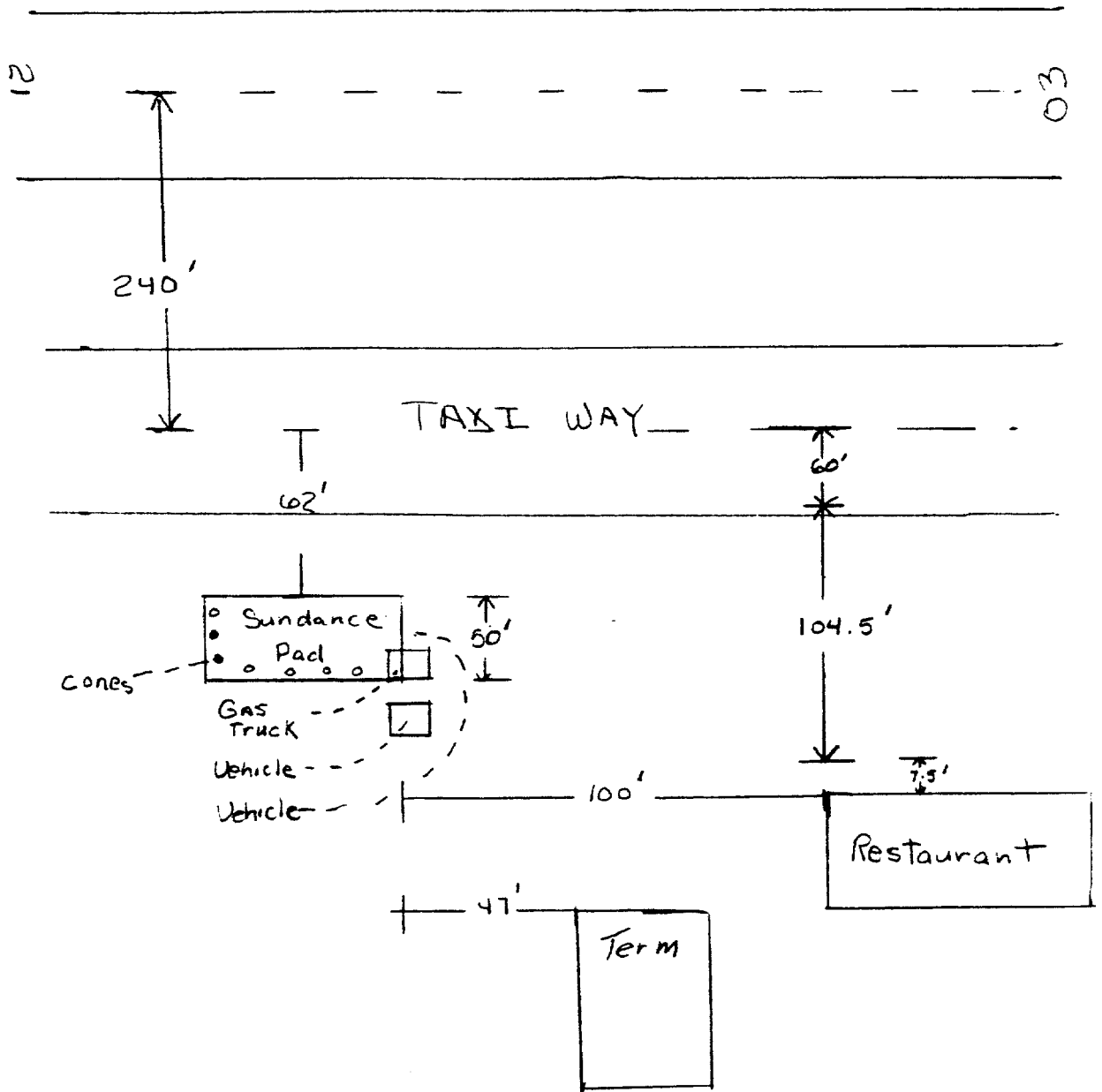
I discussed the problem with Mike Cain. He said they would purchase a clear glass container to drain fuel and properly dispose of the fuel. I advised Mr. Cain that I would provide him with a copy of Advisory Circular (AC) 150/5230-4, "Aircraft Fuel Storage, Handling and Dispensing on Airports."

Red Rock Aviation was provided a copy of AC 150/5230-4, "Aircraft Fuel Storage, Handling and Dispensing on Airports." The management of Red Rock Aviation should do an internal evaluation of the fuel facility in accordance with the above referenced AC.

A follow-up inspection of Sky Dance Helicopters' fuel truck should be conducted to determine compliance with proper, daily check procedures.

During my interviews with the Sedona airport operators, most indicated they were happy with the fueling services.

Sundance Helicopter Area



NOT TO SCALE

November 22, 1999

TO: AeroVista
Arizona Helicopter Adventures
Red Rock Biplane Tours
Sedona Sky Treks
Sky Dance Helicopters
Sky King Soaring
Westwind Aviation

FM: Mac McCall, A.A.E., General Manager, Sedona Airport

RE: Scenic Overlook / Solicitations / Parking / Airport Signs / Shrine Road

A review of airport activities over the last two weeks has resulted in a determination to implement several changes. These changes have been brought about to enhance safety of operation and address concerns for the total airport function.

Effective today the scenic overlook will no longer have a vehicle parking area. A crosswalk will be installed with the appropriate signs and a 15-mile speed limit posted on Airport Road. Shrine Road will be closed to traffic and used as overlook parking with the crosswalk access.

The Airport will remove all signs that are not on the Airport Directory. Signs can be removed by the commercial operators or picked up from SAA personnel.

There will be no solicitations on Airport Property.

The Airport Board of Directors meeting is scheduled for December 2, 1999. You are requested to direct any inquiry to the Board at that time.

date?

POLICY STATEMENT

The airport has developed a plan of positive initiatives for renewed community relations. In a review of airport policy as a result of these initiatives, solicitation on the airport property by commercial tenants is under observation. It is not consistent with airport policy to allow solicitations that would in fact harm the new initiatives.

We therefore request you instruct your employees that no abusive actions occur during sales solicitations. That would include numerous encounters with the same person, unprofessional behavior or disrespect of other commercial tenant's services. These activities reflect on the entire airport community and are not in the best interest of any organization.

Be it resolved that, in accordance with the Arizona Revised Statutes Annotated Title 28. Transportation Chapter 25. Aviation Article 6. Airports in General (s 28-8424 Nonprofit corporation lessees; status; authority.), the following rules shall be adopted:

Posting of any sign on airport property shall be prohibited unless the Airport Authority approves the content, appearance and location of the sign in writing prior to posting of the sign. Sign posting in violation of this requirement shall not be tolerated and the Airport Authority will in fact remove the sign.

Any solicitations on airport property shall be prohibited provided, however, that airport tenants and other persons or entities approved by the Airport Authority may solicit on airport property so long as such solicitation is performed within the current guidelines published from time to time by the Airport Authority.

Memo

To: Mac McCall

From: Ken Romm

Subject: Skydance/Red Rock Biplanes

Date: February 1, 2000

At 9:00 AM today I was contacted by Dwight, the Skydance pilot regarding an ongoing situation between them and Red Rock Biplanes. Dwight's complaint is that the biplane people are parking personal vehicles on the grassy area behind the building, and also parking their fuel truck on the concrete pad next to where the helicopter passengers board. The problem as they see it is one of a very unprofessional appearance, and blocked view of their helicopter, which presents a hazard to their boarding and unloading passengers.

At 9:30 I spoke with Eric, and his view is that the helicopter operation is "not safe" and the only safe place for the Biplanes day tank truck is on the pad where they have parked it. He said that only Larry can authorize moving the truck to any other location. Eric said he would be amenable to banning all ground vehicles from that area, and that the Skydance truck should have to go also.

I told Eric that the two companies don't have to like each other but they should find a way to work together. If they don't we'll work out for them and neither party will be happy.

I told Dwight and Mike Cain what Eric was proposing (he'll move his truck if they move theirs) and Dwight said "lets get this settled now!" Eric, Dwight and I went outside and the two of them argued the issue for about 10 minutes and got nowhere. Dwight finally broke off and went to fly a customer and Eric drove off. Mike Cain came out and talked with me about it and it seems he would be willing to ban all vehicles from behind the building and move his fuel truck. The problem is where would the fuel trucks be staged. Skydance doesn't want the truck too far from their landing pad. Eric doesn't want it anywhere near his aircraft.

I told all the parties I would discuss it with you and let them know what we have decided.

I recommend that if we are going to be involved in this dispute:

- A. We ban all personal vehicles from the area.
- B. We designate a parking area for the fuel trucks.



Sedona Airport Administration

235 Air Terminal Drive, Suite 1 • Sedona, Arizona 86336
520-282-4487 • Fax: 520-204-1292

February 21, 2000

Sedona Airport Commercial Leaseholders:

Once again, I am in receipt of complaints from airport visitors concerning the business practices of our commercial leaseholders. These complaints continue to arise from sales tactics between air tour operators.

Strong competition is what good business is all about! The problem develops when the airport visitors become victims of that competition. That is when the competition crosses the line and becomes a nuisance. It is not in anyone's best interest to disrespect any competing commercial operators' services. These types of actions result in poor public perception of the airport community. In the past I have taken decisive action in these matters where they can be verified. I will again take whatever action is required to maintain a professional airport image.

Effective today, I will issue lease violation letters to any leaseholder that allows employees to become involved in disrespectful business practices. The leaseholder will then be required to answer the violation letter and provide details for correction of the issue. Failure to make the required corrections will result in the start of lease revocation proceedings against the leaseholder

Very Truly,

A handwritten signature in black ink that reads "Mac McCall". The signature is written in a cursive, flowing style.

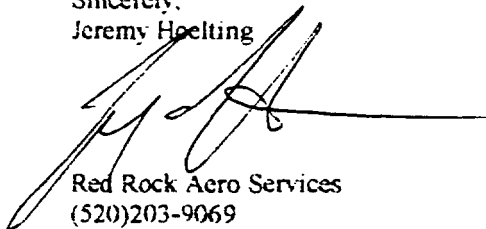
Mac McCall, A.A.E.
General Manager
Sedona Airport

Dear Mac,

I recieved a phone call on May 12. at approximately 11:00am from a lady named Sherri Lapedz from Phoenix. I booked her and two friends on a 25 minute flight with Arizona Helicopter Adventures. The flight was reserved with a Discover credit card and the flight scheduled for 5:00pm that day. When Ms. Lapedz and her two friends arrived at my office I was at lunch. The three ladies cancelled their flight with AZ Helicopter and flew with Skydance instead because of the route that Skydance flies.

When I returned from lunch two Skydance employees tried to tell me they were sorry they took my booking and that they didn't sell them on the flight. I hope in the future when they find out a customer is already booked for a flight that they will respect the commercial flight operator by not stealing those customers.

Sincerely,
Jeremy Hoelting



Red Rock Aero Services
(520)203-9069

Sat. May 6, 2000/11:31am
Sedona Airport
Hanger area east end


To whom it may concern:

I started my initial taxi of aircraft N43064 in front of my hanger #12 after doing a run-up and system check in front of our hanger when I was S-turning the aircraft at slow walk I noticed a cherokee N3922k on my left. I was on the centerline and avoiding the cherokee aircraft; when on my right side there was a Ford f-150/tan in color belonging to Dwight Jones parked approximately 15 feet from his hanger toward the centerline. The ford pickup was unattended where it was parked.

I was looking left to avoid the cherokee and did not know that the ford pick-up was there.

At that point the right lower wing tip hit the rear of the pickup and tore the end of the wing off. It also dented the ford truck tailgate. The aircraft had only 6.5 feet from the right wheel pant to the ford pickup. There were approximately 30 feet from the left wheel pant to the cherokee tie-down. I was taxi-ing the aircraft directly over the yellow center stripe on the aircraft ramp area when the wing hit the ford and my forward movement stopped. I then proceeded to shut the aircraft down and Deplane the aircraft.

Eric J. Brunner

A handwritten signature in black ink, appearing to read 'Eric J. Brunner', with a long horizontal line extending to the right.

Chief Pilot
Red Rock Biplane Tours



Sedona Airport Administration

235 Air Terminal Drive, Suite 1 • Sedona, Arizona 86336
520-282-4487 • Fax: 520-204-1292

May 22, 2000

SkyDance Helicopters
1225 Airport Road, Suite 5
Sedona, AZ. 86336

Dear Mr. Cain:

A vehicle driven by one of your employees was parked in close proximity to the taxiway in front of your hangar area on May 6, 2000. It is my understanding that an aircraft attempting to taxi through the area in fact struck the vehicle.

Please review procedures for operations on airport movement areas with your staff.

Very Truly,

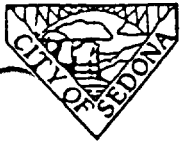
A handwritten signature in black ink, appearing to read "Mac McCall". The signature is fluid and cursive, written over a horizontal line.

Mac McCall, A.A.E.
General Manager
Sedona Airport

SEDONA POLICE DEPARTMENT

Incident Report

NATURE OF OCCURRENCE DAMAGE ATTEMPTED CRIMINAL						ADDRESS 235 Air Terminal Dr. Sedona Arizona								DATE/TIME REPORTED 5-17-2000 1155							DR # 20-3876							
FELONY YES NO X	TYPE OF PREMISES Airport Runway Turnoff									SEC/A.R.S. 13-1602							DATE AND TIME OCCURRED 5-17-20 0000/0600							RELATED DRS				
EXACT LOCATION OF OCCURRENCE N Taxiway Turnoff											SECURED? NO							LENGTH OF REPORTING DELAY Minutes										
VALUE OF PROPERTY NA											WEAPONS/INSTRUMENTS USED NONE [X]							LENGTH OF TIME DURING WHICH OFFENSE COULD HAVE OCCURRED 6-Hours										
POINT OF ENTRY Airport Road											OCCUPIED AT TIME? WHO NONE							WAS THERE A WITNESS TO THE OFFENSE?										
METHOD OF ENTRY Unknown											DISTINCT CHARACTERISTICS NONE []							IS STOLEN PROPERTY TRACEABLE?										
																		CAN SUSPECT VEHICLE BE IDENTIFIED?										
																		CAN SUSPECT BE IDENTIFIED?										
																		CAN SUSPECT BE DESCRIBED?										
																		ARE THERE ANY INVESTIGATIVE LEADS?										
R/E	NAME Romm Kenneth J DOB 11/15/52 ADDRESS ZIP RESO # ID/SS HGT WGT HAIR EYES BUS #																											
V	NAME Sedona Airport DOB SEX RACE ADDRESS ZIP RESO # ID/SS HGT WGT HAIR EYES BUS #																											
S	NAME UNKNOWN DOB SEX RACE ADDRESS ZIP RESO # ID/SS HGT WGT HAIR EYES BUS #																											
CONTROLLED DOCUMENT DISSEMINATION CONTROLLED BY LAW RELEASED TO BRUNNER DATE 06/29/00																												
SEDONA POLICE DEPARTMENT VIN 100 ROADRUNNER DRIVE SEDONA AZ 86336																												
LICENSE STATE YEAR VEHICLE LOCKED? YES NO REGISTRATION IN VEHICLE? YES NO KEYS IN VEHICLE? YES NO ODOMETER ENTERED NCIC YES NO																												
REGISTERED OWNER IDENTIFYING CHARACTERISTICS											NCIC NO.							INSURANCE CO.										
SYNOPSIS OF EVENTS On 5-17-2000 at about 1155 hours I met with assistant manager Kennet J Romm 11-15-52 at the Sedona Airport. Romm handed me a welded three nail object which he said he found on a Taxi-way turnoff just Northeast of the Airport buildings. Romm also found a cement nail on one of the turnoffs and wanted a record of this incident in case someone is trying to Sabotage the Business owners at the Airport or the Airport itself. Romm feels that the sabotage objects were placed on the turnoffs between 0000/0600 on 5-17-2000. Romm also requested extra patrol at night.																												
REPORTING OFFICER Robert Melkoma SN 107 BEAT EAST REASSIGNMENT #																												
INDEXED CLERK UCR SCORED CLERK	INVESTIGATION CONTINUED UNFOUNDED CLEARED WILL VICTIM PROSECUTE? YES [X] NO []																											
CODE V-VICTIM S-SUSPECT W-WITNESS P-R - PERSON REPORTING IL - INVESTIGATIVE LEAD SUPERVISOR REVIEWING SN Rdm #283.																												



SEDONA POLICE DEPARTMENT

Supplement

NATURE OF OCCURRENCE	DATE OF THIS SUPPLEMENT	D.R. NUMBER	PAGE NO.
Damage Attempted Criminal	5-25-2000	20-3876	1
1) On 5-25-2000 at about 0930 hours I met with Kenneth			
2) Romm 1115-52 reference a report of Attempted Criminal			
3) Damage at the Airport			
4)			
5) Romm said there was no new incidents or information			
6) reference the Attempted Criminal Damage, but Romm			
7) would like Extra Patrol at night at the Airport			
8) because of the two burglaries to vehicles over the			
9) last few nights.			
10)			
11)			
12)			
13)			
14)			
15)			
16)			
17)			
18)			
19)			
20)			
21)			
22)			
23)			
24)			
INVESTIGATION CONTINUED	UNFOUNDED	CLEARED	INDEXED
		ARREST <input type="checkbox"/>	UCR SCORED
		EXCEPTION <input type="checkbox"/>	CLERK
		JUVENILE <input type="checkbox"/>	CLERK
REVIEWING SUPERVISOR	SER. NO.	REPORTING OFFICER	SER. NO.
RDM #283		Robert M. Mena	107



Sedona Airport Administration

235 Air Terminal Drive, Suite 1 • Sedona, Arizona 86336
520-282-4487 • Fax: 520-204-1292

Memo

To: Mac McCall, AAE, General Manager

From: Ken Romm, Assistant Manager

Subject: Malicious Acts

Date: June 28, 2000

I received a call from Larry Brunner, owner of Red Rock Biplanes, at approximately 8:30 AM this morning reporting that Eric Brunner, chief pilot of Red Rock Biplanes, had just called him to report malicious damage to their fuel truck tire caused by a booby-trapped parking cone. Larry told me they were calling the police. The cone had several very sharp 2-inch drywall screws run through the top, which were then concealed with duct tape. When they moved their truck, the Red Rock Biplane employees did not see the cone, ran over it puncturing one tire. At the same time I was speaking with Larry, Brad Eastburg, a line technician for Red Rock Aviation, returned from the comm-ops building with one of the cones and stated that all the parking cones around the Skydance Helicopters landing area were in fact booby-trapped the same way.

I told Larry we were working on the problem as he was speaking and I concluded the phone call with him. I then called Skydance Helicopters and asked the person in the office whom I needed to speak with regarding the cones. I was told Mike Muetzel, the Skydance pilot, was the person I needed to talk with and he was in the hanger getting ready for a flight.

Terry Mounts, from Red Rock Aviation and I went to the hangar where I asked Mike Muetzel directly if he knew what was the purpose of screws in the parking cones at his landing area. His response was "To keep people from running over them, which has been happening a lot lately. But since I fixed the cones no one has run over them."

I returned to the terminal to speak with Mac McCall, the airport manager. He and I then went out to look at the Red Rock Biplane area and inspect the cones at the Skydance Helicopter landing area. Per Mac McCall, I removed the booby-trapped cones, temporarily replaced them with some of our cones, and took the booby-trapped cones back to Red Rock Aviation to remove the screws. We removed approximately 50 screws from the cones, then I returned the cones to the ramp area where they came from.

When I asked Mike Muetzel (a retired U.S. Navy Commander) what he thought would happen to someone if they were caught doing this in the Navy, his response was a slight chuckle and "I don't know!" I responded with "They probably wouldn't be in the Navy for much longer."

It appears to me that Mike Muetzel doesn't comprehend the potential consequences of his actions, which include personal injury or death. He in fact, deliberately introduced an anti-personnel device at worst and at the least a FOD condition on the aviation apron area.

SEDONA POLICE DEPARTMENT

NATURE OF CALL INFORMATION ONLY		DATE/TIME OF REPORT 6/28/00 0935		DR NUMBER 20-5173	
LOCATION OF OCCURRENCE 1225 AIRPORT Rd		SEDONA		DATE/TIME OF OCCURRENCE 6/28/00 0935	
VICTIM/COMPLAINANT BRUNNER, ERIC J.		DATE OF BIRTH 5/3/73		RACE W	SEX M
VICTIM/COMPLAINANT ADDRESS		CITY		STATE	
				PHONE NUMBER	

DETAILS:

MUETZEL, MIKE P. 8/21/48 2476 COMMANDER CT. CAMP VERDE AZ 867-2744 W/M
MCCALL, EDWARD J. 3/19/50 235 AIR TERMINAL DR. UNIT 1 SEDONA 282-4487 W/M

ON JUNE 28th AT ABOUT 0935 I WAS DISPATCHED TO 1225
AIRPORT Rd. IN SEDONA REGARDING INFORMATION ONLY. UPON ARRIVAL I
SPOKE WITH ERIC BRUNNER. BRUNNER WAS UPSET BECAUSE SOMEONE

SUPERVISOR/SER. 1/K. Miller #53	OFFICER/SER. [Signature] Powers 312
---	---

HAD PUT SCREWS IN TRAFFIC CONES. HE WAS AFRAID ONE OF HIS
AIRPLANES WOULD RUN OVER THE SCREWS AND CRASH WHEN TRYING TO LAND.
BRUNNER THOUGHT MUETZEL HAD DONE THIS. I THEN TALKED TO MCCALL,
AIRPORT MANAGER, MCCALL SAID HE WOULD REPLACE THE DAMAGED CONES
AND ISSUE A LEASE VIOLATION TO MUETZEL. NEXT I TALKED TO MUETZEL
WHO SAID HE DID PUT SCREWS IN THE CONES. HE SAID HE DID THIS TO
HOLD THE CONES TOGETHER, AS THEY WERE SPLITTING FROM BEING
RUN OVER. MUETZEL SAID HE WOULD NOT DO THIS AGAIN. BRUNNER
INTENDS TO FILE A REPORT WITH THE FAA AS HE BELIEVES THE
ACT WAS INTENTIONAL.

CONTROLLED DOCUMENT
DISSEMINATION CONTROLLED BY LAW

RELEASED TO BRUNNER

EMPL # 298 DATE 062900

SEDONA POLICE DEPARTMENT
 100 ROADRUNNER DRIVE, SEDONA AZ 86336



Located at the Sedona Airport: 1225 Airport Rd. Sedona, AZ

Mailing Address: 770 Sunshine Lane Sedona, AZ 86336
(520) 204-5939 • 1-888-TOO-RIDE • (Toll Free)

June 30,2000

Dear Mac:

I'm writing this letter out of concern for safety on our ramp area. Please pick up the Skydance Helicopter cones that ajoin our ramp. These are not FAA approved and our obviously being held together by deck screws that pose a severe hazard to aircraft operations and safety. The incident reported to the police with the report attached should be dealt with immediately. Thank you.

Dakota Territory Tours, Inc

Larry Brunner, Pres.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
120 North LaSalle Street, Chicago, IL 60602 Tel: (312) 704-0550 FAX: (312) 704-1522

*New York • Los Angeles • San Francisco • Washington, DC • Newark • Philadelphia • Baltimore • Miami
Chicago • White Plains, NY • Dallas • Albany, NY • San Diego • Houston • Garden City, NY
Affiliate Offices: Paris • Berlin • Cologne • Frankfurt • Munich • Wiesbaden*

www.wemed.com

July 11, 2000

Certified Mail, Return Receipt Requested
and Via Facsimile (520) 282-3004

Mr. Michael Cain
Sky Dance Helicopter
1225 Airport Road, #5
Sedona, AZ 86336

Re: Notice of Lease Violation;
Ultrahazardous Activity on Airport Property

Dear Mr. Cain:

I have been retained by the Sedona Airport Administration to bring to your attention a serious breach of your lease and the potential life threatening conditions which exist on the airport property. Recently, it was brought to the Airport's attention that Mr. Mike Muetzel, an employee of Sky Dance Helicopter, had placed parking cones with 2 inch drywall screws running through the top of the cones and concealed with duct tape around the Sky Dance landing area. These cones have already caused serious damage to other tenants' property and may also cause serious bodily injury to invitees and other persons who move about the airport property.

Accordingly, please be advised that the Airport hereby demands that such activity by you or any person employed or affiliated with Sky Dance Helicopter stop immediately. Please understand that should this type of activity continue, the Sedona Airport Administration will consider Sky Dance Helicopter to be in continual breach of its lease and will vigorously move to exercise all legal remedies available to it, including but not limited to, immediate termination of your lease.

Naturally, if you would like to discuss this matter further, please contact Mr. Mac McCall, Airport General Manager, at 520-282-4487 or you may contact me at 847-808-0812.

Very truly yours,

WILSON, ELSE, MOSKOWITZ, EDELMAN
& DICKER, LLP


Kenneth D. Ross

KDR/cv
cc: Mac McCall



Located at the Sedona Airport: 1225 Airport Rd. Sedona, AZ

Mailing Address: 770 Sunshine Lane Sedona, AZ 86336

(520) 204-5939 • 1-888-TOO-RIDE • (Toll Free)

7/17/00

Sedona Airport Administration
Attention: Mac McCall & Board Members
235 Air Terminal Drive
Sedona, Arizona 86336

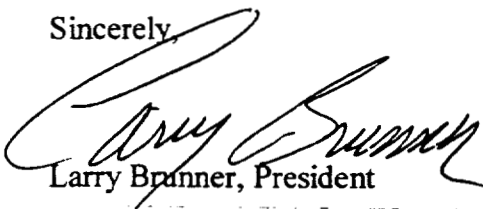
Dear Mac & Board Members,

This letter is in reference to the relations between Red Rock Biplane Tours and Skydance Helicopters. Due to the ongoing hazardous situation between our company and Skydance, we have requested their removal from their close proximity of our aircraft, ramp and office. Their actions have incurred blatant lease violations in addition to federal and state law violations. Their history of harassment and terrorist acts speaks for itself: tampering with cones with intent to cause harm/damage to our aircraft, equipment, pilots, passengers, and innocent bystanders; verbal threats to our employees by Claudia Cain; slanderous verbal attacks about our company both off airport property and on.; blatant fabrications and lies to promote Skydance and contribute to the desired demise of our company.

Because it is evident that **NO** actions will be taken by the Sedona Airport Authority to remedy this volatile situation (which has been instigated and continued by Skydance), we are holding you liable for **ALL** mishaps that occur. The Sedona Airport Authority will assume all liability of any such incidents of vandalism, accidents, injuries, or deaths that may result due to the continued close proximity of Skydance to Red Rock Biplane Tours and the validity of their lease.

From the onset of Red Rock Biplane Tours is has been a struggle to obtain office space, fair and reasonable treatment in reference to Skydance. It has been made clear they never wanted us to operate here. As they could not halt the onset of our flight operations, they have been trying to abolish our existence from this airport. We are only asking for quiet enjoyment of our lease, which we are entitled to. The safety of all is our number one concern and we do not feel confident in assuming any liability with tenants who are above the law- where there is no recourse taken by the Sedona Airport Authority.

Sincerely,



Larry Brunner, President

Cc: David W. Counce, p.c.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
120 North LaSalle Street, Chicago, IL 60602 Tel: (312) 704-0550 FAX: (312) 704-1522

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Affiliate Offices: Paris • Berlin • Cologne • Frankfurt • Munich • Wiesbaden*

www.wemed.com

July 21, 2000

Via Facsimile (520) 204-6403
and Certified Mail. Return Receipt Requested

Mr. Larry Brunner
President
Red Rock BiPlane Tours
770 Sunshine Lane
Sedona, AZ 86336

Re: Sky Dance Helicopter

Dear Mr. Brunner:

I have been retained by the Sedona Airport Administration (SAA) to respond to your correspondence of July 17, 2000. I have read your correspondence and offer the following information and comments.

The SAA is aware of Sky Dance Helicopter's recent actions in creating a hazardous situation at the Airport and has taken immediate and swift action to require Sky Dance Helicopter to remove the hazardous cones placed around the Sky Dance landing area. The Airport is confident that Sky Dance Helicopter is aware that any continued use of the dangerous cones is prohibited.

With respect to your other allegations that Sky Dance Helicopter has issued verbal threats, slanderous comments and otherwise has made misrepresentations about your company, we suggest you contact your own counsel and pursue whatever course of action you deem appropriate against Sky Dance Helicopter directly. However, please understand that the SAA will not involve itself or allow its officers to be embroiled in a business to business dispute. Quiet enjoyment of your lease is a two way street and does not require that the Airport interject itself into business disputes between tenants. The Airport will enforce each of its tenants' lease obligations fairly and without prejudice. Please do not threaten, attempt to intimidate or cajole the SAA to act in any different manner.

Mr. Larry Brunner, President
Red Rock BiPlane Tours
July 21, 2000
Page 2

The SAA encourages all tenants to report hazardous conditions which it may view on Airport property. The SAA further expects its tenants to act as good neighbors with all Airport users and the Airport Administration. I would suggest that if you expect the Airport to respond to your complaints in a prompt and courteous manner you will refrain from issuing threats and ultimatums.

If you would like to discuss this matter further, please do not hesitate to contact the Airport Manager, Mac McCall, at 520-282-4487 or you may contact me directly at 847-808-0812.

Very truly yours,

By:  Kenneth D. Ross

KDR/cv

cc: Mac McCall

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
120 North LaSalle Street, Chicago, IL 60602 Tel: (312) 704-0550 FAX: (312) 704-1522

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www.wemed.com

July 20, 2000

Certified Mail, Return Receipt Requested
and Via Facsimile (520) 282-3004

Mr. Michael Cain
Sky Dance Helicopter
1225 Airport Road, #5
Sedona, AZ 86336

Re: Notice of Lease Violation;
Ultrahazardous Activity on Airport Property

Dear Mr. Cain:

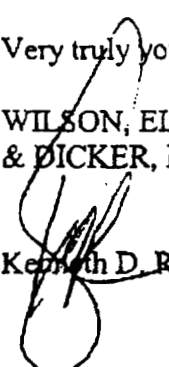
The Airport is in receipt of your correspondence dated July 12, 2000 regarding your violation of your lease. In response, please be aware that whether you had actual knowledge of Mr. Muetzel's actions is irrelevant; he is your employee and hence, you are responsible for his actions. Secondly, if you are unable to appreciate the dangerous condition created by your employee's actions, we suggest you seek outside counsel to explain the seriousness of your actions. In either event the Airport will not accept any further violations of your lease.

In response to your inquiry concerning vehicle access to the ramp, please understand that authorized Airport users and Airport vehicles will cross the ramp area from time to time. This area is utilized for ingress and egress and we expect all users of the Airport to use prudent caution and behavior when driving on Airport property. The Airport will continue to monitor its ramp and your operations to insure that all activities are performed in a safe and reasonable manner.

Naturally, if you have any questions, please feel free to contact the Airport Management.

Very truly yours,

WILSON, ELSE, MOSKOWITZ, EDELMAN
& DICKER, LLP


Kenneth D. Ross

KDR/cv

cc: Mac McCall

Memo

To: Mac McCall

From: Ken Romm

Subject: Biplane-Skydance dispute

Date: July 25, 2000

Yesterday, July 24, Dwight the mechanic from Skydance Helicopters was performing a blade balance operation on one of their helicopters in the common area in front of the Skydance and Red Rock Biplanes maintenance hangars. Stuart Pratt and I witnessed part of the operation in the mid-afternoon while we were out inspecting drainage problems on the field.

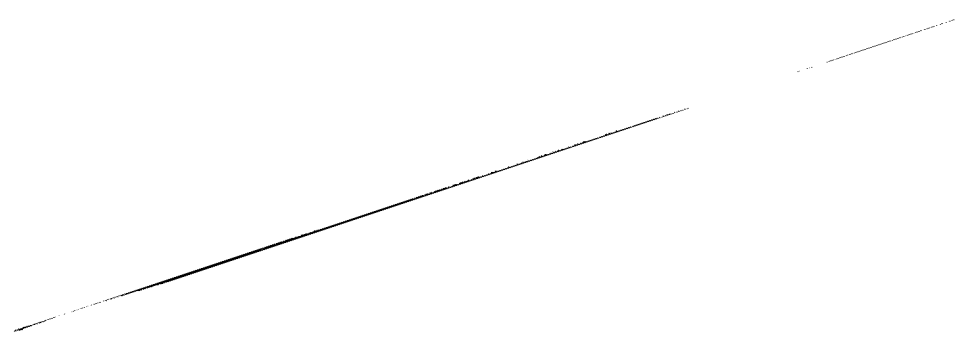
The helicopter maintenance took approximately 4 hours to complete during which time the ship was started and run, but not flown, for several minutes at a time multiple times.

I did not receive any complaints from any tenants until 4:30 P.M. when Larry Brunner from Red Rock Biplanes called that he needed to see me at his hangar. Terry Mounts and I went to see Larry. Larry was extremely upset and verbal about the helicopter maintenance. He said it was "potentially damaging to his aircraft" and he was "not about to buy another \$10,000 wing". He said that the helicopter was running with an unlicensed mechanic at the controls, his people were forced to work in the hangar with the door shut while the chopper was running, and he and his people feel very unsafe working that way. The hangar is stiflingly hot with the door closed. I told Larry that I would speak with you about it and Larry said that he "wants a letter stating the airport policy on whether or not helicopter maintenance involving running engines is allowed in that location".

After I finished speaking with Larry, I went over to the Skydance hangar and talked with Dwight. Dwight said that he is "fed up with Larry and Larry's people", that he "has always been courteous with them and specifically placed the chopper out of the way so they could get through the taxiway. He has been using that area for that type of work for over three years". Without my asking, Dwight said he wants a letter stating what the airport policy is going to be regarding where he can perform that type of maintenance. His objection to doing the maintenance anywhere else is that his tools are not readily transportable.

When I finished talking with Dwight, Terry and I went over to Aerovista to treat an ant hill problem with pesticide. While there, Frank Kish commented that with the helicopter "running all day" at the end of the ramp, Aerovista is losing customers because "they see the running helicopter in the way and they turn around and leave."







Sedona Airport Administration

235 Air Terminal Drive, Unit 1 • Sedona, Arizona 86336
482-282-4487 • FAX 482-204-1292
520 520

AIRPORT ACCIDENT REPORT

AIRCRAFT TYPE HE200072R IDENTIFICATION NUMBER SKYDANCE
OCCURRED ON DATE 8-13-00 ~~PILOT~~ Observer NANCY NOGENT
TELEPHONE NUMBER 517-626-6644 ADDRESS 104 SC WACOSTA
CITY NEWITT MI 4882 STATE MI

INFORMATION

While visiting Newport Inn just at celebration
about all afternoon + saw at least the Sky Dance
fuel at least 4 times while engine running.
Tom owned control of their program. They
live between Fuel Truck + Helicopter while
fueling in program. They did not keep
people in Area that they should be at.
They let people walk all over ramp area.
Going from their Area over to the Bi-Plane
operation, Bi-plane people had to keep speaking
to them, I felt the Red Rock Bi-plane people
had good control.

AIRPORT MANAGER

Memo

To: Mac McCall

From: Ken Romm

Subject: Complaint from Larry Brunner

Date: August 24, 2000

At approximately 10:00 this morning I was stopped by Larry Brunner of Red Rock Biplanes who told me he was complaining about the Skydance Helicopter operation out of the north end of the field. Larry said, this morning his employees were in the process of moving their biplanes out of the hangar and they had pushed one biplane out and were getting it ready to tow while the other of their aircraft was already being towed to the biplane ramp. Before the Biplanes employees could tow the waiting biplane out of the hangar area, one of the Skydance employees pushed a helicopter out in front of the not-chocked waiting biplane, started up and departed to the North from the area in front of the Skydance and Biplanes hangars.

Larry's complaint is that the Skydance people are being inconsiderate and creating a safety hazard with their continuous departures from a crowded ramp area. He is further complaining that this is a "violation of the airport minimum standards" and that the "Airport Administration is setting a bad precedent by not enforcing the minimum standards" he feels are being violated. In Larry's words, he "is tired of the dirt being blown into his hangar, his employees feeling they are in physical danger, and the potential of damage to his aircraft and property." In short he wants "something done about it."



Located at the Sedona Airport: 1225 Airport Rd. Sedona, AZ

9/4/00

Mailing Address: 770 Sunshine Lane Sedona, AZ 86336
(520) 204-5939 • 1-888-TOO-RIDE • (Toll Free)

Federal Aviation Administration

Attention: Mr. Larry Buchanan and Charlie Prince

1777 N. Perimeter

Scottsdale, AZ 85255

Dear Mr. Buchanan and Mr. Prince:

This letter is in reference to commercial operations at the Sedona Airport the weekend of Labor Day. On 9/3/00 at 8:45am Sky Safari was loading a flight. As our passengers and onlookers stood on the sidewalk near the ramp observing an UFO Static Display, Skydance's Helicopter #1448 (piloted by Dwight Jones), did two 360 degree climbing turns to a 75 foot hover (approximately) above the fuel truck and restaurant and within 25 feet of the onlookers causing dirt and rocks to fly where the onlookers were standing. Dwight Jones then continued with an erratic pitch change bringing the nose down and flying off to the North.

These "showboat" tactics are unsafe and dangerous, going against all FAR's. It is common knowledge that the airport management requires helicopters to hover taxi from their non-heli-pad ramp space. Neither Dwight Jones or Mike Metzel of Skydance perform hover taxi's from their ramp space. We have notified the Sedona Airport Administration on several occasions and it continues to occur.

In addition, Skydance continues to land their helicopter in front of our hangar onto the airport taxiway. This could lead to numerous mishaps. This has also been reported to the Sedona Airport Administration and it continues to occur. As an operator on the field, my concern is for the safety of our passengers along with innocent, non-flying onlookers and our equipment/aircraft.

Sincerely,

Larry Brunner, President

cc. Sedona Airport Administration

Memo

To: Mac McCall

From: Ken Romm

Subject: Complaint from Skydance

Date: September 10, 2000

Mike Cain from Skydance Helicopters came over to the terminal to see me. He is objecting to the large number of Red Rock Biplanes employees soliciting his customers from the porch and parking lot area of the comm-ops building. It has escalated over the last few weeks, and he says this type of soliciting is in direct violation of the agreement you, he and Larry Brunner worked out some months ago.

Mike said that when Claudia, his wife was putting out some trash in the trash can outside the building this afternoon, she was insulted by a Biplane employee who made a poor taste attempt at humor. He continued to state that he is having difficulty keeping employees because of the harassment and bully tactics employed by the Red Rock Biplane employees.

Mike also wants to go ahead with the hangar swap idea ASAP, and he wants to move forward on a new building with a lobby, hangar and helipad operation away from the Biplane Operation. He said he would like to talk further about that with you.

A SPECIAL...Fax Transmission

DATE: 9-12-00

To: Mac McCall

Fax Number:

Phone Number:

From: **Skydance Helicopters**

Our Phone: 1(520)282-1651

Toll Free: 1-800-882-1651

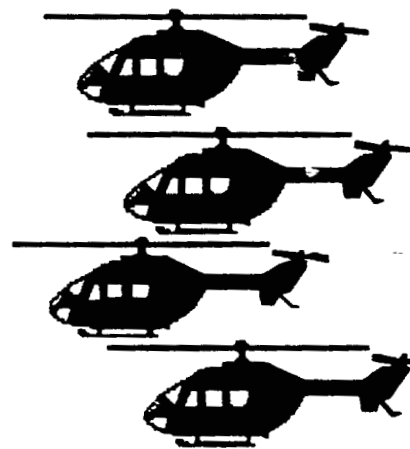
Our Fax: 1-(520)-282-3004

No. of pages including cover page: 1

Hi Mac

Large Signs

PASSENGER CHECK-IN



Misleading signs above ^{both} Red
Rock Bi-Planes doorways.
I know you wouldn't have
authorized this. We have a problem
if helicopter passengers have to
check in at the Bi-Planes.

Please let me know when we can get
together to discuss re-locating
our business. Thank you.

Regards,

Michael Cain.

From The Desk Of
Jessica Barnes
Fox Lake, IL

October 10, 2000

Airport Manager
Sedona Airport
Sedona, Arizona 86336

Dear Sir or Madam,

During our recent visit to Sedona, we decided to take a helicopter tour of the area. Upon arriving at the tour building we asked a young man (his name was Rick or Erick, I'm sorry I don't exactly recall) where we could book a flight. He then guided us to the booking desk for a biplane ride. We told him we were interested in a helicopter flight and were not interested in a biplane. At hearing this, the young man proceeded to tell us that we should be very careful as the helicopters had a very unsafe record and that they had hurt people. We were surprised at this comment and asked him to explain further at which point he became very belligerent with us and said it was "our lives" and we could do whatever we wanted, just "don't blame him" if we are "hurt or worse". He told us he was a professional, experienced chief pilot and he knew what he was talking about. He was very rude and insulting.

Needless to say we were very upset and decided to spend our money elsewhere. We left the airport and never took an air tour, his or the helicopter.

The purpose of this note is nothing other than to let you know that such actions like trying to scare away customers from a competing business is very bad business and it reflects poorly on the rude young man, his company and especially yourself as his manager. You should all be ashamed.

We will visit Sedona again, but we will never visit your airport again.

Sincerely yours,



Jessica Barnes



Sedona Airport Administration

235 Air Terminal Drive, Suite 1 • Sedona, Arizona 86336
520-282-4487 • Fax: 520-204-1292

October 19, 2000

Mr. Michael Cain
Skydance Helicopters
1225 Airport Road #5
Sedona, AZ. 86336

Dear Mr. Cain:

We have reviewed the circumstances leading to our decision not to renew your lease upon expiration. We will give you the opportunity to continue your business operations at Sedona Airport if you sign the revocable license agreement enclosed. Furthermore, the requirement to begin all helicopter operations on the heliports at the southwest area of the airport must be accomplished by November 1, 2000.

If by Friday, October 20, 2000 at 5p.m., you have not signed and agree to be governed by the revocable license our previous decision not to renew your lease will stand.

Very Truly,

Edward J. McCall, A.A.E.
General Manager
Sedona Airport

TERMINATION OF LEASE AND REVOCABLE LICENSE

This Termination of Building, Hanger, Hanger Pad Or Tie Down Space Lease ("Termination") is entered into this ____ day of October, 2000 by and between the Sedona-Oak Creek Airport Authority, also known as Sedona Airport Administration (collectively "Landlord"), and Michael Cain and Skydance Helicopters, Inc. (collectively "Tenant")(Landlord and Tenant collectively referred to as "the Parties").

RECITALS

This Termination is made with reference to the following facts and objectives.

A. Landlord and Tenant entered into a Building, Hanger, Hanger Pad Or Tie Down Space Lease dated April 25th, 1997, as extended to March 31, 2001 pursuant to a Lease Amendment and Extension dated March 31, 1999 (the "Lease"). A true and accurate copy of the Lease is attached hereto as an Exhibit to this Termination.

B. The Lease is for Space A of the Commercial Activities Building on the Sedona Airport ("Airport"), as depicted at Exhibit A to the Lease (the "Premises").

C. Landlord is a non-profit corporation charged with the administration and operation of the Sedona Airport. Landlord has complete authority and control over all airport operations, including but not limited to, the regulation of the health, safety and welfare of Airport patrons and operations.

D. During Tenant's Lease term, Tenant and its employees have on numerous occasions engaged in actions and behavior that interfered with Airport operations and the business of co-tenants. Tenant has received numerous verbal and written warnings regarding its actions on and about the Airport. For example, Tenant received from Landlord a Lease Violation on or about July 11, 2000 for introducing two-inch dry-wall screws to the aircraft movement area. Tenant acknowledges and agrees that this may have caused serious damage to persons or property at the Airport.

E. On or about September 29, 2000 at approximately 4:45 P.M., employees under the direction and control of Tenant caused a Bell 206 JetRanger III helicopter (N83148) ("Aircraft") to land in close proximity to an Airport Hanger shared with co-tenant Larry Brunner, Dakota Territories, Inc. d/b/a Red Rock Biplane Tours, d/b/a Red Rock Aero Services, d/b/a Solid Edge Aviation ("Brunner"). This action allegedly caused property damage to Brunner's property. Employees of Brunner and Tenant were thereafter immediately involved in a serious altercation involving acts of violence and threats of violence (hereinafter referred to as the "Altercation").

F. The Altercation resulted in Brunner's employee throwing a light blue object, possibly a milk crate or step-ladder/chair, in the direction of the Aircraft. The same

employee returned to the Tenant's hanger and emerged with a baseball bat and pieces of wood. Tenant's employees then engaged Brunner and its employees and patrons in a verbal confrontation.

G. The Sedona Police Department responded to the Altercation. The Sedona Police Department potentially cited an employee of Brunner with Disorderly Conduct in violation of A.R.S. § 13-2904 being Incident Report DR 20-8287.

H. The Altercation severely disrupted the Sedona Airport. The Altercation could have resulted in serious physical injury or even death to Airport patrons and employees of Tenant or Brunner. Landlord and Tenant agree that the Altercation and activity involving the Altercation interfered with the landing of the Aircraft and constituted a serious hazard as described above.

I. The Altercation cause by Tenant and Tenant's employees is an admitted violations of Lease Sections 2.2.1, 2.2.4, 5.1 and 5.7. Section 5.9 of the Lease states that Tenant's noncompliance with Section 5.7 shall be deemed a material breach of the Lease. The Parties agree that the Altercation is a breach of Section 5.7 resulting in a material breach of the Lease.

J. Pursuant to Section 18 of the Lease, upon a material breach of the Lease the Landlord may, at any time and without notice or demand and without limiting the Landlord's rights and remedies, immediately terminate the Lease and immediate reenter and repossess the Premises.

K. On or about October 10, 2000, Landlord by written notice to Tenant stated that Landlord would not renew the Lease for wilful violations of Lease Sections 2.2.1, 2.2.4, 5.1, 5.7, and 5.9 (the "Nonrenewal Notice"). A true and accurate copy of the Nonrenewal Notice is attached as an Exhibit to this Termination. Tenant acknowledges receipt of the Nonrenewal Notice and concurs with its content and validity. Furthermore, Tenant acknowledges and agrees that it violated Lease Sections 2.2.1, 2.2.4, 5.1, 5.7, and 5.9 and that the Landlord has adequate legal cause to terminate the Lease.

L. Tenant acknowledges that the Lease is terminated and of no force and effect upon Landlord and that Tenant's current occupancy has been an accommodation to Tenant absent any rights by Tenant to assert possession of the Premises.

M. The Parties desire to reduce the Landlord's Termination of the Lease and Termination Notice to a formal written agreement. The Parties further desire to grant Tenant a revocable license to operate its business at the Premises subject to the terms and conditions of the Lease.

AGREEMENT

The Parties therefore agree as follows.

1. **Incorporation of Recitals.** The Parties agree that the Recitals stated above are substantive provisions of this Termination as if restated in this paragraph one, such Recitals being incorporated herein by this reference.

2. **Termination of Lease.** The Lease is terminated. Tenant has no claim to any leasehold interest, tenancy, tenancy at will or other real or personal property interest in the Premises defined in the Lease, except the limited revocable license rights expressly granted by Landlord to Tenant to operate its business in the Premises as part of this Termination. Tenant waives its right to any statutory provisions regarding the Lease or reentry of the Premises and the right to institute legal proceedings arising out of or related to the Lease or the Termination.

3. **Admission Regarding Airport Hazard.** Tenant acknowledges and agrees that Tenant, by participating in the Altercation, caused a serious hazard and interfered with Sedona Airport operations. Tenant acknowledges and agrees that the Landlord is justified in terminating the Lease based on the Altercation.

4. **Tenant Release of Landlord.** In consideration of this Termination and the revocable licence rights granted herein, the Tenant does hereby forever release, discharge and acquit Landlord and its directors, officers, agents, insurers, attorneys and representatives of and from all claims, demands, liabilities, debts, obligations, damages and causes of action of every kind and nature, from the beginning of time through the date of this Termination, whether known or unknown, including but not limited to all claims and causes of action that have been asserted or could have been asserted arising out of or related to the Lease or the Termination.

5. **Grant of Revocable License.** Landlord grants to Tenant a revocable license to operate its business in the Premises defined in the Lease subject to all the terms and conditions of the Lease ("Revocable License"); provided however, the Revocable License granted herein is terminable at the will of the Landlord, but in no event shall the Revocable License exceed the term of the Lease which was to terminate on March 31, 2001. The Revocable License shall immediately terminate upon the Tenant's breach of any provision of the Lease, including but not limited to Section 5 of the Lease. If Landlord determines in its sole discretion and authority that Tenant, after the date of this Termination, has (i) taken any action that would be a breach of the Revocable License, (ii) engaged in any behavior prescribed by the Landlord herein, or (iii) taken any action similar to the Altercation, the Landlord shall revoke Tenant's Revocable License, with or without cause. Landlord's determination as to Tenant's actions shall be binding upon Tenant and Tenant shall have no further right or interest whatsoever to contest Landlord's decision or actions. Upon notice to Tenant of

Tenant's breach and revocation of the Revocable License, Tenant shall quit the Premises and terminate all business activities within one (1) day of such notice. Tenant acknowledges and agrees that the Revocable License to operate its business in the Premises does not grant Tenant any possessory real property rights to or in the Premises, such right being conclusively released pursuant to this Termination.

6. **Operating Covenant.** Tenant agrees that during the term of the Revocable License that it shall not operate its business or use the Premises in a manner that is objectionable to Landlord or Airport patrons. Tenant shall not allow its employees to engage in verbal altercations, fights, threats, questionable business activities, or actions of any kind that would be a breach of the Revocable License.

7. **Prohibition of Firearms.** Tenant and its employees, agents, patrons, associates, suppliers, officers, directors or anyone acting on behalf of or in concert with Tenant shall be prohibited, at all times while on Airport property, from carrying, concealing, transferring or otherwise having on their person or property any firearm. This prohibition against firearms includes all forms of firearms, including but not limited to handguns, rifles, shotguns, hunting rifles, and any and all forms of firearms now known or hereinafter developed.

8. **Terms of Revocable License.** The terms and of the Revocable License are those set forth in the Lease, which terms are incorporated as though set forth herein, with the exceptions of (i) the terms and conditions will be those of the Revocable License, and not the Lease; (ii) the provisions relating to the term or period of the Lease are not incorporated in the Revocable License or this Termination, Sections 1.13 through 1.15 of the Lease being expressly excluded herein; and (iii) Tenant agrees its rights to use operate its business at the Premises arises solely out of the Revocable License and not out of a landlord/tenant relationship.

9. **Successors and Assigns.** This Termination shall be binding upon and inure to the benefit of the Parties hereto and their respective successors in interest. It is not the intent of the Parties that this Termination be binding upon a purchaser of any Party to the extent that the purchase or sale is to a bona fide purchaser for value.

10. **Severability.** To the fullest extent possible each provision of this Termination shall be interpreted in such fashion as to be effective and valid under applicable law. If any provision of this Termination is declared void or unenforceable with respect to particular circumstances, such provision shall remain in full force and effect in all other circumstances. If any provision of this Termination is declared void or unenforceable, such provision shall be deemed severed from this Termination, and all other provisions of this Termination remain in full force and effect.

11. **Governing Law and Jurisdiction.** Except where preempted by the laws of the United States or the rules or regulations of any agency or instrumentality thereof, this Termination is to be interpreted, construed and governed by the laws of the State of

Arizona. The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the Yavapai County Superior Court in connection with any legal action or proceeding arising out of or relating to this Termination and the parties waive any objection relating to the basis for personal or in rem jurisdiction or to venue which it may now or hereafter may have in any such suit, action or proceeding.

12. **Time** Time is of the essence of this Termination and each and every provision hereof. Any extension of time granted for the performance of any duty under this Termination shall only be effective if in writing signed by or on behalf of all Parties to this Termination and shall not be considered an extension of time for the performance of any other duty under this Termination.

13. **Gender and Number**. Whenever from the context it appears appropriate, each item in the singular shall include the plural and vice versa and the masculine, feminine, or neuter form shall include the masculine, feminine and neuter forms.

14. **Modifications and Waivers**. No change, modification, or waiver of any provision of this Termination shall be valid or binding unless it is in writing dated after the date hereof and signed by or on behalf of all Parties to this Termination. No waiver of any breach, term, or condition of this Termination by any Party shall constitute a subsequent waiver of the same or any other breach, term, or condition or a continuing waiver after demand for strict compliance.

15. **Authority**. Each person that signs this Termination on behalf of any Party represents individually for the benefit of all other Parties to this Termination that such person has the authority to sign and bind the entity for which he is signing this Termination.

16. **Further Acts**. The Parties agree to perform all further acts and execute and deliver all documents as may be reasonably necessary to give effect to the provisions and intent of this Termination.

17. **Headings**. The headings in this Termination are for convenience in reference only and in no way define, limit or describe the scope or intent of this Termination or the provisions of such sections.

18. **Counterparts and Fax**. This Termination may be executed in any number of counterparts, and by facsimile, each of which shall be an original and all of which shall be deemed to be one in the same Termination.

19. **Drafting**. This Termination has been reviewed by respective counsel for each Party. It is agreed that it shall not be construed against any Party on the basis of that Party's identity as the drafter of this Termination.

20. **Attorneys' Fees**. The Parties agree that in the event of any litigation among them arising out of or related to this Termination, the prevailing party in such litigation shall be entitled to reimbursement of all attorneys' fees and costs.

LANDLORD:
THE SEDONA-OAK CREEK AIRPORT
AUTHORITY, an Arizona non-profit
corporation

TENANT:
MICHAEL CAIN, SKYDANCE
HELICOPTERS, INC.

By: _____
Edward J. McCall, A.A.E.
Sedona Airport Administration
General Manager

By: _____
Michael Cain, President

Statement

I have witnessed, on numerous occasions, the landings and departures of Skydance Helicopters aircraft from their parking/boarding area, adjacent to the commercial operations building and the Airport Restaurant.

On many occasions, the helicopter will fly directly to the loading area and land without stopping at the taxiway A-4 intersection to hover taxi for landing. Additionally, on those same occasions, departures have been made directly from the boarding area without clearing turns to the north to look for fixed wing traffic. The departures usually cross the active runway, at midfield, and leave the airport boundary to the east.

 10/24/2000

Statement

I have witnessed, on numerous occasions, the landings and departures of Skydance Helicopters aircraft from their parking/boarding area, adjacent to the commercial operations building and the Airport Restaurant.

On many occasions, the helicopter will fly directly to the loading area and land without stopping at the taxiway A-4 intersection to hover taxi for landing. Additionally, on those same occasions, departures have been made directly from the boarding area without clearing turns to the north to look for fixed wing traffic. The departures usually cross the active runway, at midfield, and leave the airport boundary to the east.

Thomas R. Simpson
10/24/2000

Memo

To: Mac McCall

From: Ken Romm

Subject: While you were out

Date: January 8, 2001

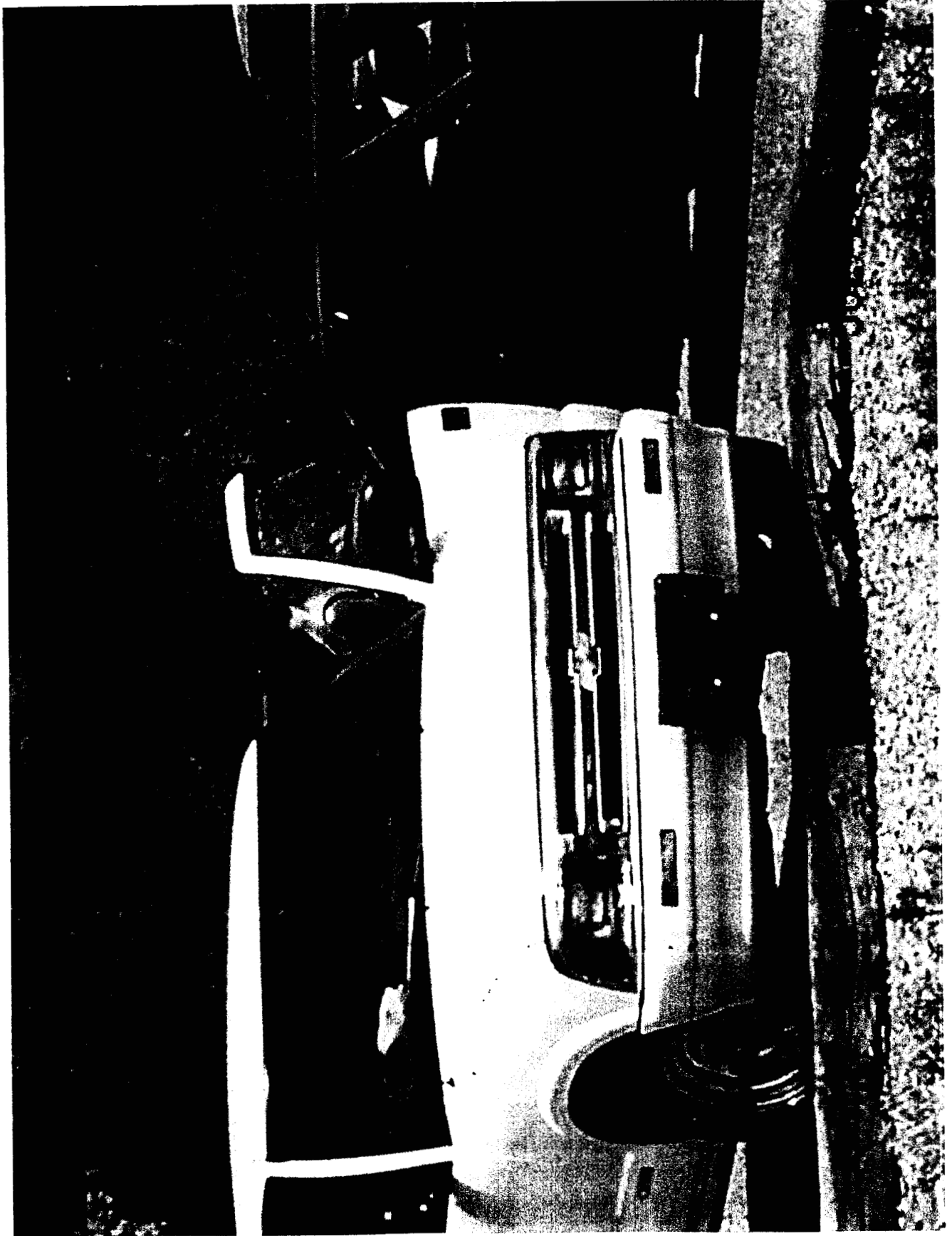
1) Larry Brunner has asked me to ask you for a ground lease for the new building that he wants to construct. He needs the lease in order to secure funding for the project.

2) Eric Brunner has reported that Claudia is now back from her vacation. According to Eric, after two weeks of harmony at the comm-ops building, things are now going back to the way they were before you hammered out the agreements with Skydance and Red Rock Biplanes.

Eric says that today, when two groups of vouchered Arizona Helicopter Adventures (AHA) customers booked through Sedona Pines Resorts came to the comm-ops building by mistake, Cynthia (Eric's employee) directed them to the main terminal building. As they were leaving the comm-ops building, Claudia got verbally upset with Cynthia and wanted to know why she didn't refer the customers to Skydance. According to Eric, Claudia was very upset with Eric's employee and made it clear she would have preferred to steal customers from AHA.

SkyDance personnel soliciting airport tourist visitors in violation of airport policy.





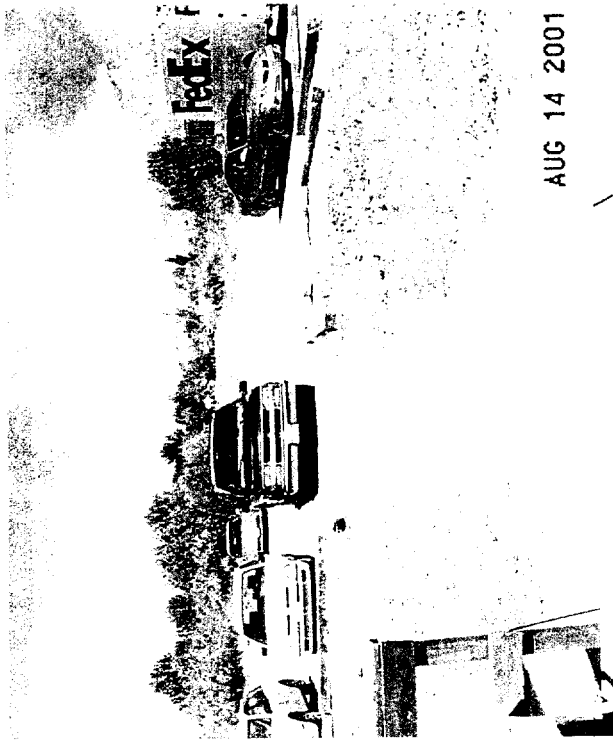
SkyDance Helicopter landing in unauthorized area of hangar ramp in violation of airport policy.



SkyDance personnel vehicles blocking competing company walkway, so that the SkyDance walkway is the only one available.



AUG 14 2001



AUG 14 2001



AUG 14 2001



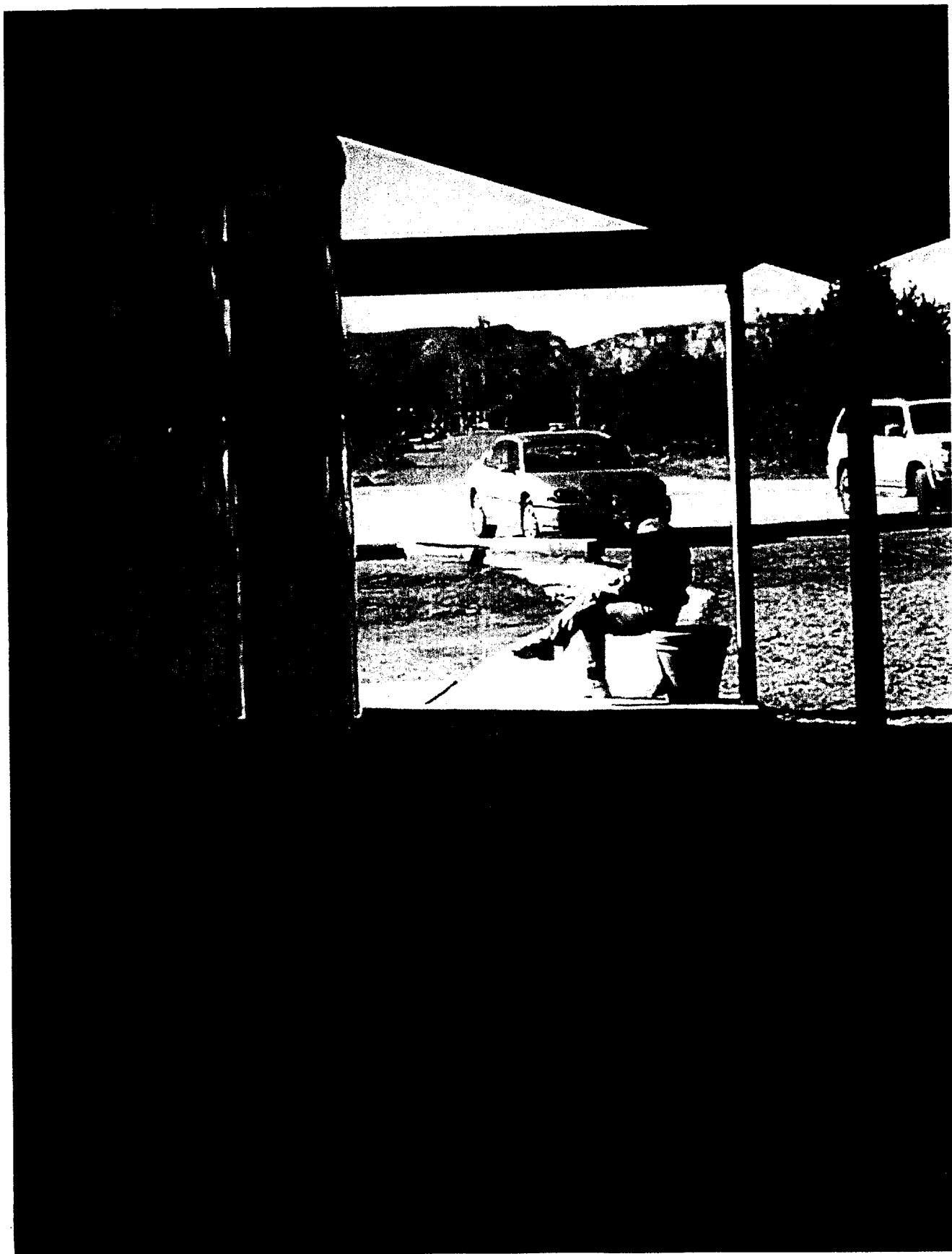
AUG 14 2001

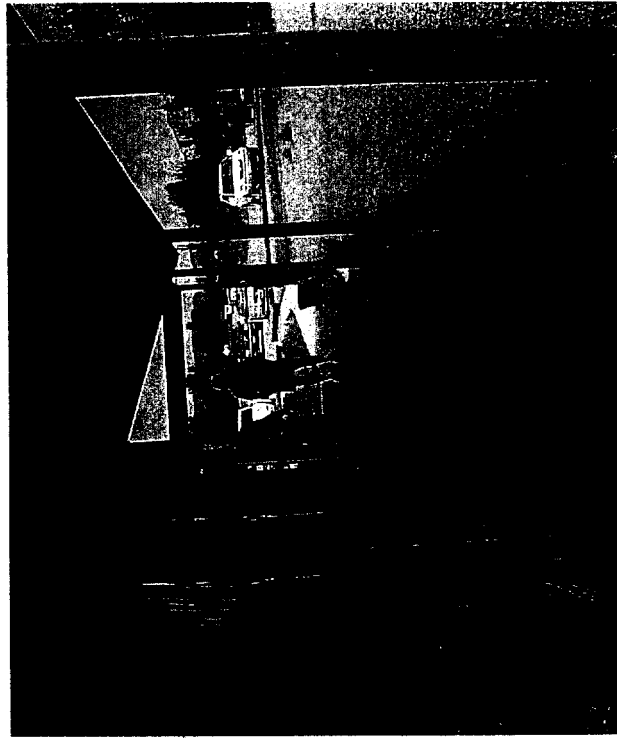
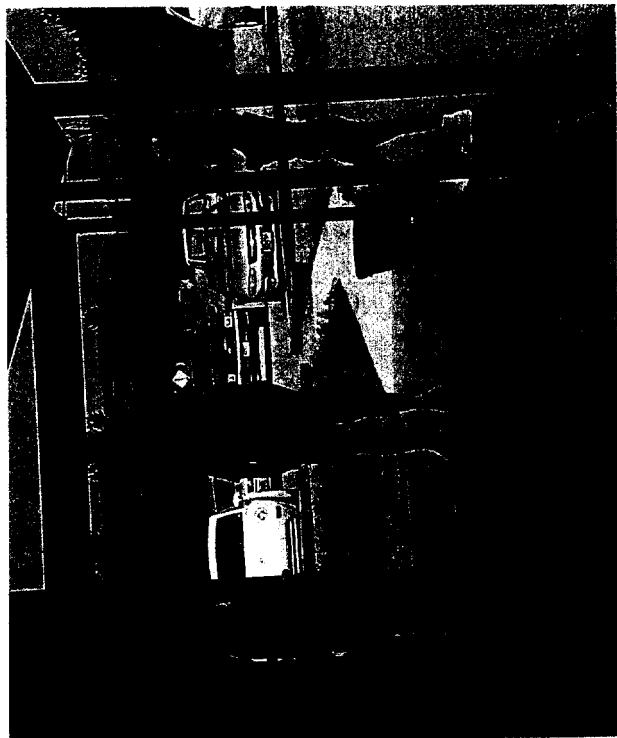
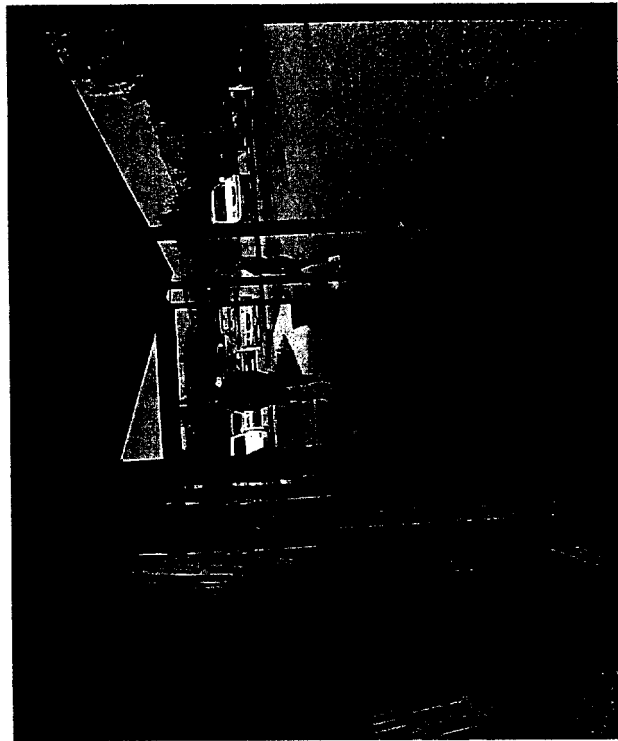
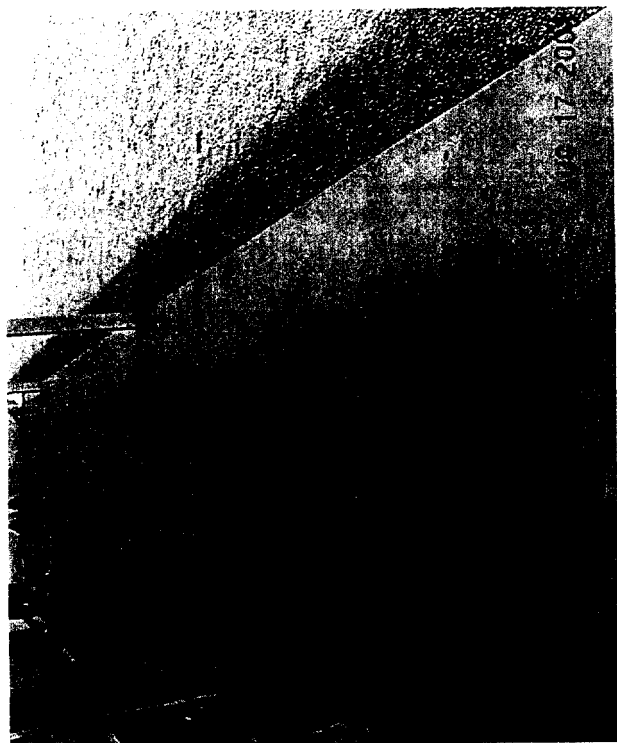


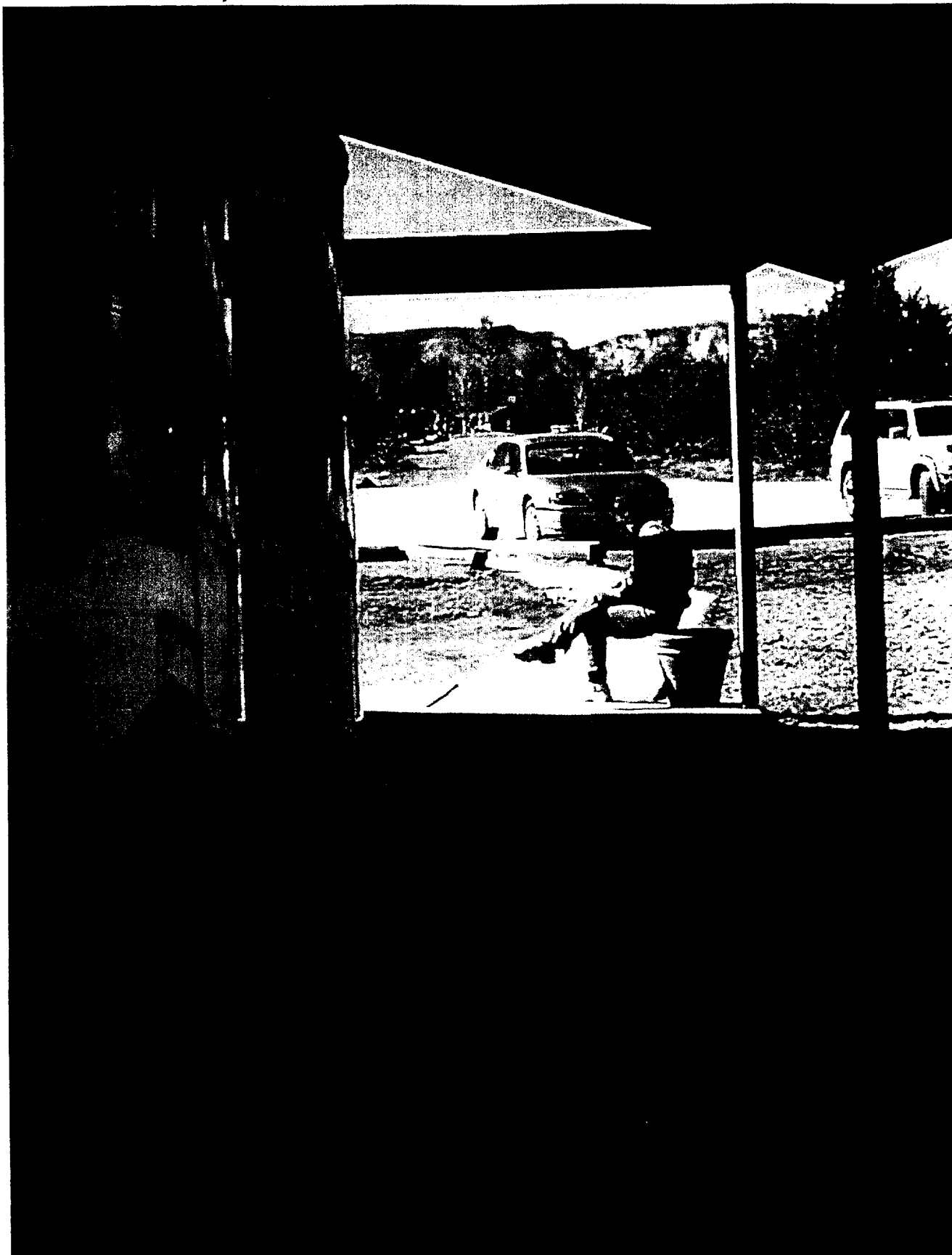
All Day Sat 3-31-01

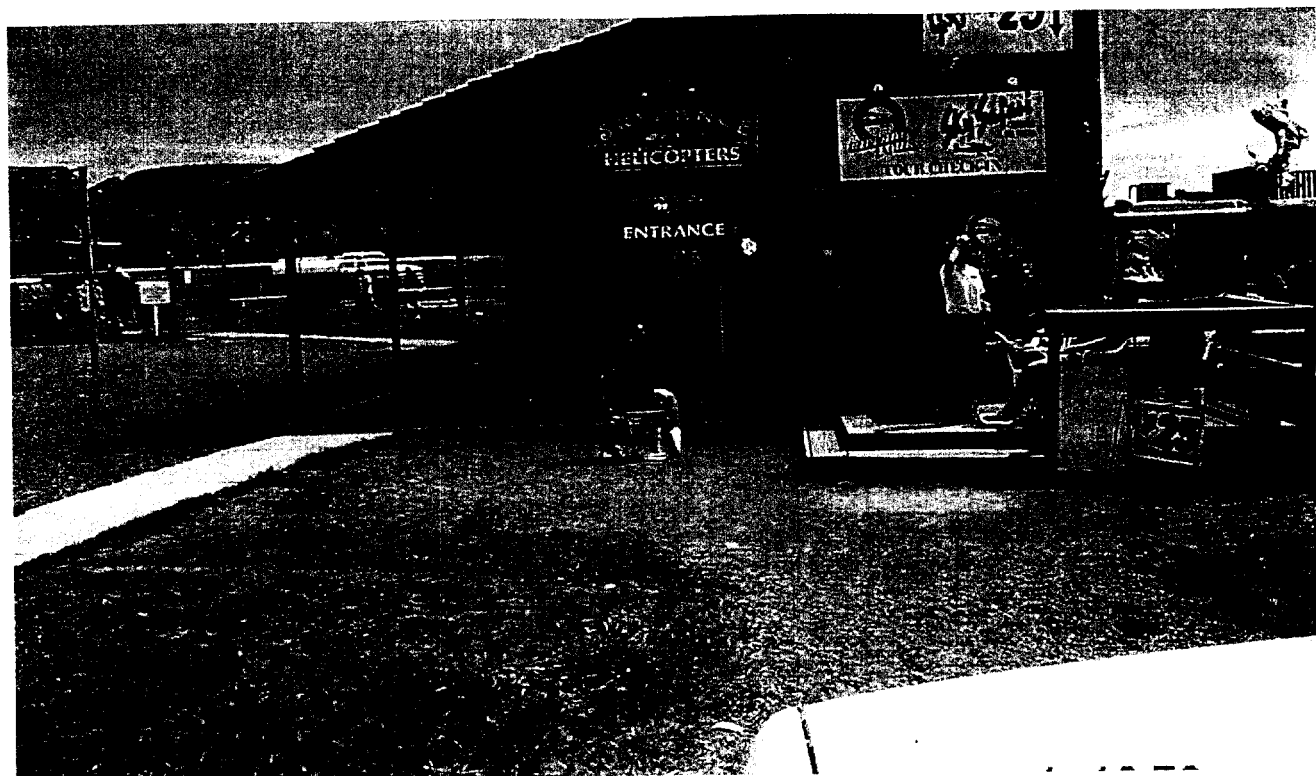
SkyDance personnel blocking the walkway to intercept any tourists that may want to fly with a competing company.



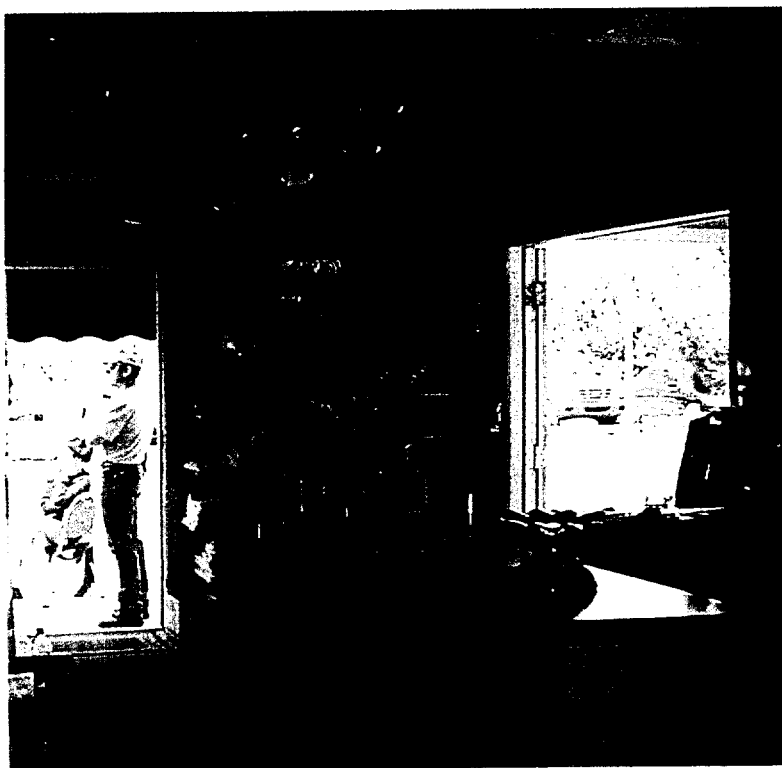




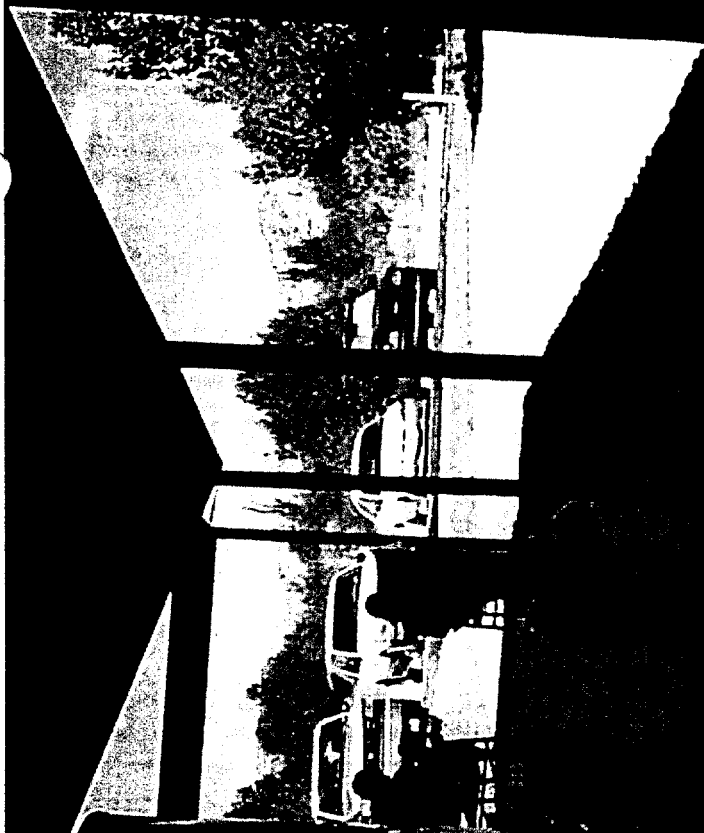


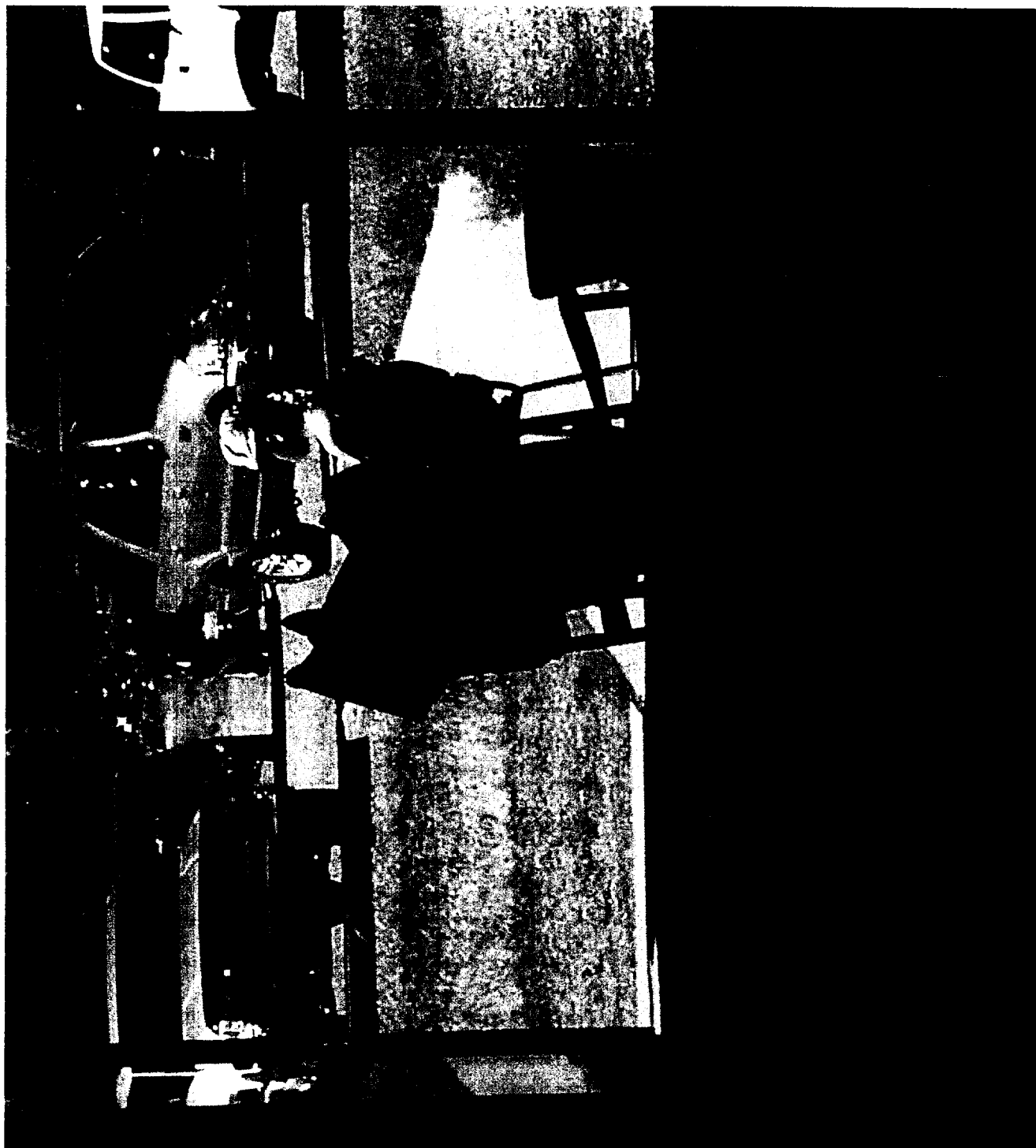


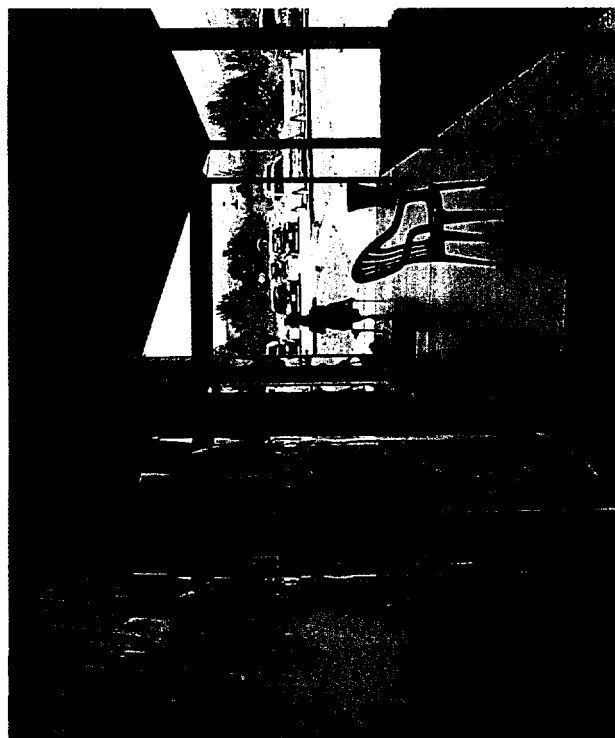
4-1-01 1:00pm



1:00 pm 4-01-01







- Memo For Record -
ATTN: Airport Manager & Directors
Date: Sept. 30, 2001
Subject: Skydance Hel. Operations

Time: 15:29

When purchasing a soda at the
Commercial Bldg. (Skydance/Red Rock
Ops. center) a Skydance helicopter
landed directly (perpendicular) to
the taxi-way. Much dirt &
even small stones evident.
Wind: From the East

Approach From South between
taxi-way & Dirt road.

Time: 15:46

Same as above

Time: 15:55

Same as above except Wind
CALM No Air taxi

Page 2

Time: 18:05

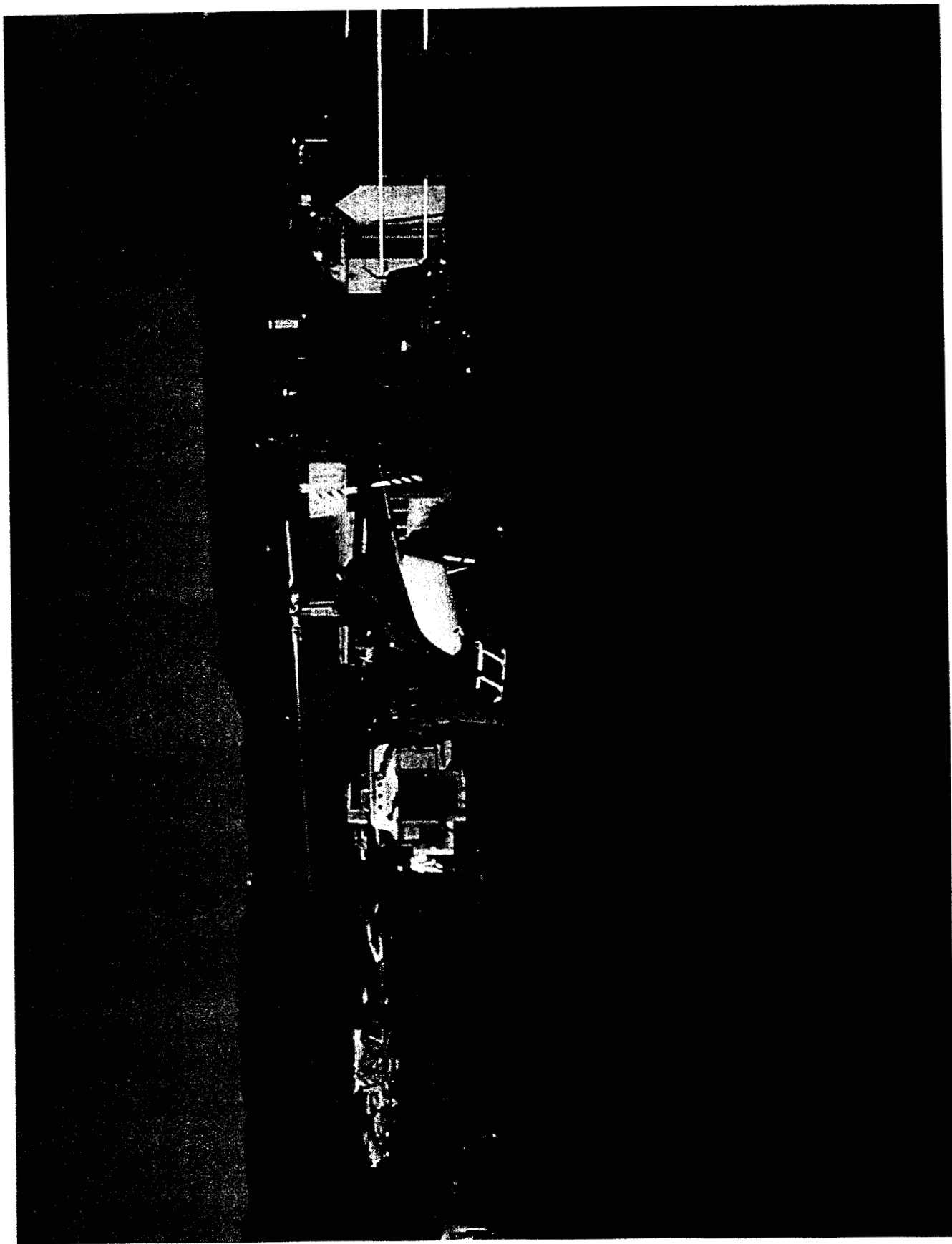
Take-off - Auto-Rotate
 to South - Above dirt road
 and slightly to east - Much
 dirt again. - Proceeded to
 west between terminal and
 runway to west. Low
 elevation.

Believe pilot's name is Dwight
 — these operations.
 I will discuss these operations
 with any party and give more
 detail.

Signed
D.M. Bryant
 Director, SAA

cc: File

Fuel truck parked in camping area and refused to be moved ever.



10-14-01 8291 sm



Sedona Airport Administration

235 Air Terminal Drive • Sedona, Arizona 86336

Tel: 928-282-4487 • Fax: 928-204-1292

October 19, 2001

Mr. Tony Garcia
Federal Aviation Administration
Airports Division, AWP-620.1
P.O. Box 92007
Los Angeles, CA. 90009

Dear Mr. Garcia:

In response to your letter of October 17, 2001 concerning the SkyDance Helicopter issue review we have enclosed the documents you have requested and provided the answers to your questions as follows.

- A. Airport Board of Directors Meeting minutes approving of Operating License enclosed.
- B. List of tenants that have signed and not signed Operating License enclosed.
- C. No waiver to the Operating License will be granted.
- D. No Lease has been approved without an Operating License.

Please feel free to contact me with any questions or concerns.

Very Truly,

Mac McCall, A.A.E.
General Manager
Sedona Airport



U.S Department
of Transportation

Federal Aviation
Administration

Western-Pacific Region
Airports Division

Federal Aviation Administration
P.O. Box 92007
Los Angeles, CA 90009-2007

October 17, 2001

Edward McCall
General Manager
Sedona Airport Administration
235 Air Terminal Drive, Unit 1
Sedona, AZ 86336

Dear Mr. McCall:

**Sedona Airport
Operating License**

This letter is in regard to your letter dated September 14, 2001, and our telephone conversation on September 28, 2001, addressing concerns expressed by Michael Cain of Sundance Helicopters.

You indicated that the Operating License was adopted as a new policy in October 2000 on the advise of your attorney. In addition, you reported that, with the exception of Michael Cain, Sundance Helicopters, most of your airport tenants have signed the Operating License. We are requesting documentary evidence to support the information we have received. Please provide the following:

- a. A document showing that the Airport Board of Directors adopted the Operating License as an official qualifying condition for prospective tenants to obtain an airport lease.
- b. A list identifying all airport tenants that have signed and executed an Operating License and those that have not done so. For tenants that have not yet signed an Operating License, explain why a License has not yet been signed.
- c. Describe any circumstances under which an airport tenant may be given a waiver from signing the Operating License.
- d. Since adopting the Operating License, if any lease was executed without an Operating License, disclose the identify of the tenant(s) benefiting from the exception and the reason(s) for the exception.

Before we can fully evaluate the reasonableness of the Operating License, we must know if it is officially part of the airport's minimum standards and is used to determine if applicants for aeronautical commercial leases meet specific airport-related qualifications to operate at Sedona Airport. Therefore, we look forward to the requested information within 14 days following your receipt of this letter.

10/17/01 WED 10:56 FAX 310 725 8847

FAA AIRPORTS DIVISION

0003

If you have any questions, please call me at (310) 725-3634.

Sincerely,



Tony Garcia

Airports Compliance Specialist

Ellsworth L. Chan, Manager
Safety and Standards Branch

cc: Michael Cain



Sedona Airport Administration

235 Air Terminal Drive, Suite 1 • Sedona, Arizona 86336
520-282-4487 • Fax: 520-204-1292

Sedona Airport Administration Airport Terminal Conference Room Minutes of the Regular Meeting – October 23, 2000

Directors Present: President Dave Webster, Vice President Allan Pratt, Russell Demaray, and Al Bieher

Directors absent: Dr. Robert Mitchell, Secretary/Treasurer Mike Bryant, and Dr. Rick Hosking

Agenda Item #1 - Call to Order: President Webster convened the meeting at 7:30 p.m.

Agenda Item #2 - Approval of Minutes: The Minutes of the Regular meeting of August 28, 2000 were approved unanimously as written.

Agenda Item #3 - Reports:

Secretary/Treasurer's Report –No report. Mr. Webster stated we were doing well and ahead of forecast.

General Manager's Report: - Mac McCall reported the fencing construction program is on schedule. He stated that Stantec had been up to inspect taxiway and agreed it needed to be sealed. McCall said the County is going after the bonding company to complete the project. Mr. Webster provided the information that the taxiway had developed some cracks. McCall stated the noise abatement signs were done and would be put up as soon as weather permits.

Sedona Citizen's Noise Abatement Committee Report: Mac McCall reported that Airport would receive a copy of the video produced and shown on the local Sedona TV channel.

Agenda Item #4 Consent Agenda: Motion to approve lease for new cell tower passed unanimously.

Agenda Item #5 Old Business: none

Agenda Item #6 New Business: Mr. Webster requested a Notam be issued in regard to helicopter operations at the airport. He expressed concern that helicopters landed near the restaurant and fuel truck. Some discussion ensued. Mr. McCall made it clear that he had made every attempt to obtain compliance with previous requests to the owner to land in a specific manner, including input from Larry Buchanan of the FAA. McCall stated he had the Notam ready to go and Mr. Webster suggested it be issued as soon as possible. Motion for Operating License for all aviation tenants approved unanimously.

Al Pratt brought up a proposal to amend the bylaws (copy attached).
Each item of the proposal was voted on individually.

Item 1. Preface. Passed unanimously.

Item 3.1 Regular meetings. Passed unanimously.

Item 3.3 Annual Meeting. Passed unanimously.

Item 4.1 Officers Change to: Passed unanimously.

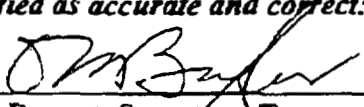
Item 4.1 Officers Add: 2 Ayes, 2 Nays, tabled.

Agenda Item #7 Public Comments:

Ken Romm said the construction is on schedule and nearly done, and drainage issues will be resolved.

Agenda Item #8 Adjourn: Meeting adjourned at 8:00 p.m.

Certified as accurate and correct:



O.M. Bryant, Secretary-Treasurer,
Board of Directors
Sedona Airport Administration

Date

12/4/00



Sedona Airport Administration

235 Air Terminal Drive • Sedona, Arizona 86336

Tel: 928-282-4487 • Fax: 928-204-1292

October 24, 2001

Mr. Tony Garcia
Airports Division, AWP-620.1
Federal Aviation Administration
P. O. Box 92007
Los Angeles, CA. 90009

Dear Mr. Garcia:

The situation with SkyDance Helicopter is now getting well beyond reason since they believe they can operate with impunity until the FAA reaches a determination on the License issue. We have constant altercations between SkyDance and Dakota Territory Tours employees concerning solicitation and attempted stealing of each other's customers on the walkways and parking areas of the building they share as tenants. Even an employee from one of the companies has filed a restraining order against one of the other companies' employee after being accosted. The problem with this situation is that it also reflects on the Airport that as you know is under attack by the community to be a good neighbor.

We have now warned both companies by two letters and in person that we will begin eviction proceedings if the altercations and solicitations continue.

Please review this situation with your utmost speed.

Feel free to contact me with any questions or concerns.

Very Truly,

Mac McCall, A.A.E.
General Manager
Sedona Airport

THIS IS A CONFORMED COPY OF INSTRUMENT
RECORDED ON DATE 2-19-03 TIME 8:10
IN BOOK 4003 PAGE 592
PATSY J. JENNEY-COLON, RECORDER
[Signature] DEPUTY

AMENDED AIRPORT LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 1st day of February, 2003, by and between YAVAPAI COUNTY, a political subdivision of the State of Arizona hereinafter called "LESSOR" and the SEDONA-OAK CREEK AIRPORT AUTHORITY, a non-profit corporation, d/b/a Sedona Airport Authority and/or Sedona Airport Administration, hereinafter called "LESSEE".

RECITALS

WHEREAS, the LESSOR owns certain real property pursuant to a conveyance by deed from the United States of America dated October 31, 1956 for the purpose of establishing and operating a public airport; and

WHEREAS, on January 18, 1971, the LESSOR entered into a lease agreement with LESSEE's predecessor in interest, the Sedona Airport Authority, for operation of the public airport; and

WHEREAS, since approval of the original lease, the parties have amended certain terms and conditions of the lease by execution of supplemental agreements and have extended the term of the lease by exercise of options as provided in the agreement with the term of the agreement now set to expire on May 1, 2031; and

WHEREAS, the parties wish to provide for an option whereby LESSEE may extend the lease term beyond the expiration date provided in the original lease agreement and amendments thereto; and

WHEREAS, LESSOR wishes to place the entirety of the premises conveyed to LESSOR by the October 31, 1956 deed under operating control of ~~LESSOR~~ LESSEE; and *DDW*

WHEREAS, LESSOR seeks to ensure the viability of the airport as a self-sustaining enterprise and to ensure that the airport continues to be managed and administered in a manner that will secure LESSOR's current and future fiscal interest in the facility; and

WHEREAS, the parties have determined that it would be to their mutual benefit to enter into an amended agreement, incorporating, as appropriate, portions of the prior agreements and such other amendments as the parties deem necessary; and

WHEREAS, LESSEE is a non-profit corporation formed for airport or air terminal purposes; and

WHEREAS, the parties are authorized to enter into this agreement pursuant to Section 11-28-8423 of the Arizona Revised Statutes.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS

1. **Effect on Prior Leases.** Upon approval by the parties, this Agreement shall supersede all prior lease agreements between the parties and amendments thereto.
2. **Description of the Leased Premises.** LESSOR, pursuant to the terms and conditions set forth in this agreement hereby leases the following described property:
 - A. All real property and improvements thereon as described in Exhibit A, attached hereto and incorporated by reference herein.
 - B. All personal property owned by LESSOR and located on the premises unless specifically exempted in this Agreement or amendments thereto.
 - C. Additional after-acquired property, as well as improvements thereon and equipment used in connection with the operation of the airport and air terminal purchased or acquired for such purpose.
3. **Assignment of Red Rock Memorial Lodge Lease.** As of the effective date of this Amended Airport Lease Agreement, LESSOR hereby assigns to LESSEE all of its right, title and interest in that certain Lease Agreement dated July 6, 1964 between LESSOR and the Red Rock Memorial Lodge #63 F. & A. M. ("the Masonic Lodge Lease") as amended by the "Amendment to Lease Agreement" dated April 26, 2001 ("the Amended Lodge Lease") with a current lease term to run through June 30, 2014 (copies attached hereto as Exhibit B). At such time as the Masonic Lodge Lease, as amended, expires or is otherwise terminated, the real property and improvements thereto shall become part of the premises leased by LESSOR to LESSEE pursuant to this Amended Airport Lease Agreement and shall be subject to its terms and conditions. It is understood and agreed that, as long as the lease with the Red Rock Memorial Lodge remains in force, LESSEE shall fully honor its terms and conditions.
4. **Lease Term.** The term of the amended Lease Agreement shall commence on February 1, 2003 and shall continue in full force and effect until May 1, 2031 unless otherwise terminated as provided herein. The LESSEE, may at its option, renew the Agreement for an additional term to expire June 30, 2050 by providing written notice to LESSOR on or before June 30, 2030, of its intent to renew.
5. **LESSEE's Consideration.** In consideration of approval of this Agreement, LESSEE agrees to the following:
 - A. To pay to LESSOR for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder, the sum of one and 00/100 (\$1.00) per year, the first payment to be made on or before the first day of July, ~~1999~~ ²⁰⁰³ and subsequent payments to be made on or before the first day of July of each succeeding year. *Done*
 - B. In lieu of additional payment to LESSOR, to establish and maintain an Airport Improvement Fund to be used directly for airport improvements or as matching funds for any grant-funded airport improvement. LESSEE shall deposit in the Airport Improvement Fund its gross revenues, from whatever source derived, after deducting the following:
 1. LESSEE'S expenses directly attributable to the operation of the airport and air terminal.

2. Interest at the coupon or stated rate upon LESSEE'S outstanding bonds issued for airport and air terminal purposes and for purposes incidental and reasonably incidental thereto.
 3. Amounts required to be paid into sinking funds annually for the redemption of sinking fund bonds issued for airport and air terminal purposes and for purposes incidental and reasonably related thereto.
 4. Amounts required for serial maturity of bonds issued for airport and air terminal purposes and for purposes incidental and reasonably related thereto.
 5. Amounts required to pay principal and interest on all other outstanding obligations incurred or assumed by LESSEE for airport and air terminal purposes and for purposes incidental and related thereto.
 6. A reasonable amount for operating and maintenance reserves.
6. **Public Use of the Airport.** LESSEE agrees to operate the airport for the use and benefit of the public, to make available all airport facilities and services to the public without unjust discrimination and to refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees for any use of the airport or its facilities or for any airport service. LESSEE agrees to provide space on the airport, to the extent available, and to grant rights and privileges for use of the landing area and facilities of the airport to all qualified persons, firms and corporations desiring to conduct aeronautical operations on the airport. LESSEE further agrees to promptly notify LESSOR, in writing, of any complaints received pertaining to any alleged violations of this Paragraph.
7. **Rates and Charges.** A schedule of lease rates and other applicable airport charges shall be provided to LESSOR prior to the effective date of this Agreement. LESSEE will provide written notice of any proposed changes in the schedule no less than 20 days prior to their proposed implementation date and shall provide an amended schedule prior to implementation of any such changes.
8. **Administration and Promotion of Airport Operations.** LESSEE shall actively supervise and direct the operation and development of the premises subject to the following terms and conditions:
- A. It is the expectation of LESSOR that the airport will operate as a self-sufficient enterprise without financial subsidies or other payments by LESSOR except as expressly provided herein.
 - B. LESSEE shall operate the airport in a prudent and businesslike manner and prevent the commission of waste, extravagance and unsound business practices
 - C. LESSEE shall diligently promote aeronautical activities at the airport and to secure sub-tenants who wish to base aeronautical activities at the airport and to promote other types of revenue producing activities as appropriate.
9. **Airport Safety and Regulatory Compliance.** LESSEE agrees to take all necessary measures to operate the airport safely and in compliance with all regulatory requirements. In furtherance of this obligation LESSEE agrees to:

- A. take active charge of the management and supervision of airport activities to include establishment of written field rules and other pertinent rules and regulations as authorized by law, rule or regulation;
 - B. abide by, comply with, conform to and enforce all applicable Federal, State, County statutes, orders, rules, regulations and ordinances which in any manner affect the use or operation of the airport premises, including, but not limited to existing or hereinafter enacted rules and regulation of the Federal Aviation Agency or any succeeding agency thereof,;
 - C. inspect the runway, landing areas and taxiways and the lighting thereof on a regular basis, repair, and correct any conditions requiring minor and immediate repairs, and promptly advise LESSOR or its designated representative of any major disrepair or hazardous conditions and maintain, at LESSEE's expense, the lighting of the runway, landing areas, taxiways and airport beacon during hours of darkness;
 - D. operate the airport in accordance with the obligations of LESSOR to the Federal Government as enumerated in applicable grant agreements, deeds of conveyance, statutes, rules or regulations.
 - E. mark any temporarily unusable areas of the airport with red flags or equivalent markers during daylight hours and with lantern, torches or other suitable illumination or reflective devices at night.
10. **Grant of Exclusive Rights Prohibited.** LESSEE understands and agrees that nothing contained herein shall be construed to grant or authorize the granting of any "Exclusive Right" within the meaning of Section 303 of the Civil Aeronautics Act of 1938 as amended except as expressly permitted by applicable Federal statute, rule or regulation.
11. **Other Contracts and Agreements.** The lease of the premises is subject to the terms and conditions of the contracts and agreements listed in Exhibit D, attached hereto and incorporated by reference herein and by any future grant agreements that between LESSOR and the United States of America, the State of Arizona or any other funding entity.
12. **Financing of Development and Improvements.** LESSEE shall be obligated to provide funds as necessary to expand, improve and develop the airport and air terminal and to relocate or replace existing facilities in or on any space which is or may be leased or subleased hereunder. LESSEE shall prepare and, as necessary, update a five-year development/capital improvement plan and shall provide a copy of the plan and updates to LESSOR prior to undertaking any improvements or other development activities. LESSOR reserves the right, but shall not be obligated, to undertake such development or improvements as may be necessary in order to protect its interest in the premises and/or to comply with obligations arising from federal or state laws, rules, grant agreements or other agreements or to allocate funds to be used by LESSEE for such purposes. Unless otherwise expressly provided in this Agreement, or by other properly-authorized written agreement between the parties, any such expenditures, shall become obligations of the LESSEE due and payable upon demand by LESSOR. LESSEE shall have the right to issue bonds and incur other obligations to the extent permitted by law subject to the following conditions:
- A. No bonds issued by LESSEE shall be a lien or charge upon the premises.

- B. The LESSEE shall not assign, mortgage, pledge, hypothecate or encumber this Agreement or any portion of the premises except as expressly set forth herein.
- C. Bonds issued or other obligations incurred or assumed by LESSEE for airport or air terminal purposes shall not be obligations of LESSOR and LESSEE shall have no power to pledge the credit of LESSOR in any way whatsoever.
13. **Ownership of Airport Property.** Title to buildings, structures and additions made to buildings, structures and additions made to the premises by LESSEE or any of its subtenants shall vest in the LESSOR immediately upon termination of this lease. No building, structure or addition shall be removed from the leased premises without written consent of LESSOR unless the lease, permit, license, or other agreement under which the building, structure or addition was affixed to the land provide a right of removal and said lease, permit, license or other agreement was presented to and approved by the LESSOR before title vested in LESSOR.
14. **Routine Repairs and Maintenance.** The LESSEE shall be responsible for the condition of the premises, including the airport and air terminal as well as all improvements, fixtures and personal property thereon, whether now on the premises or hereafter added. LESSEE shall make all necessary repairs, inside and outside, structural or otherwise so as to maintain the premises in good order and condition and to keep them as an operating airport and air terminal during the term of this Agreement. Should LESSEE fail to discharge its obligations as set forth in this Section, LESSOR reserves the right, but shall not be obligated, to maintain and keep in repair the airport, air terminal or any other portion of the leased premises in order to protect its interest in the premises and/or to comply with obligations arising from federal or state laws, rules, grant agreements or other agreements or to allocate funds to be used by LESSEE for such purposes. Unless otherwise expressly provided in this Agreement or by other properly-authorized written agreement between the parties, any such expenditures, once made, shall become obligations of the LESSEE due and payable upon demand by LESSOR.
15. **Utilities.** LESSEE shall pay, or cause to be paid, all charges for gas, water, steam, electricity, light, heat, power, telephone, cable or other utility service furnished to or used in connection with LESSEE's activities pursuant to this Agreement.
16. **Alterations, Capital Improvements and Maintenance Projects.** It is understood and agreed that LESSOR has no present or future duty or responsibility for alterations, capital improvements or maintenance projects on the leased premises. Major alterations, capital improvements and major maintenance projects will be included in LESSEE'S five-year development/capital improvement plan as described in Section 13 of this Agreement. Prior to the preparation of plans or specifications or selection of any architects, engineers or contractors in connection with any alteration, capital improvement or maintenance project with a cost in excess of \$10,000 LESSEE shall advise LESSOR's designated representative. LESSOR shall have the right to review and approve plans and specifications and to participate in the selection of architects, engineers and contractors. LESSOR may elect to participate in the oversight and management of projects to the extent that it deems necessary to protect its interest. The parties may develop a management plan for individual projects specifying the roles and responsibilities of each party.
17. **Taxes and Assessments.** LESSEE shall pay, or cause to be paid, punctually when due and payable, all taxes, assessments or any other charge of every kind and nature which may be levied, assessed or imposed in connection with the premises or LESSEE's activities pursuant to this Agreement. LESSEE further agrees not to allow such taxes, assessments or other charges to become a lien on the premises or any structure or any fixture,

improvement or other property located thereon. Nothing contained herein shall be deemed to prohibit the LESSEE from contesting the validity or amount of any such tax, assessment or other charge before the appropriate authority or court.

18. Subleases. Subleases by LESSEE pursuant to this Agreement shall be subject to the following conditions:

- A. LESSEE shall submit each proposed commercial sublease to LESSOR for approval prior to execution by the LESSEE. Non-commercial leases may be submitted for approval prior to execution and, if so, shall be subject to the provisions of subsection 18(B). Each sublease to be submitted for approval by LESSOR shall contain a provision stating that "This sublease shall not be effective until approved by Yavapai County". In the event that LESSOR fails to take action on a sublease within 45 days of its submission for approval, it shall be deemed approved. Subleases submitted for approval which LESSOR declines to approve by vote of its Board of Supervisors shall be deemed void and unenforceable by any party. LESSOR will provide notice to SAA of grounds for disapproval of any lease. Prior to disapproval of any lease, LESSOR shall make a reasonable effort to resolve any issues that may be characterized by LESSOR as grounds for disapproval.
- B. In the event that LESSEE's interest in this Agreement terminates prior to the date specified in Paragraph 4, LESSOR-approved subleases shall continue in effect until their expiration dates, subject to other relevant terms and conditions of individual subleases. Subleases which have not been approved by LESSOR shall specifically provide that they shall be subject to early termination in the event that LESSEE's interest in this Agreement terminates prior to the termination date specified in the sublease.
- C. Subleases shall be restricted to such space as is actually ^{required} ~~required~~ for the conduct of the sublessee's business activities. *DDA*
- D. No sublease shall encompass so large an area as to prevent other subleases to competitive aeronautical facilities.
- E. Commercial subleases and non-commercial subleases originally approved by LESSOR are not assignable by a sublessee without written permission of LESSOR and LESSEE. Each such sublease agreement shall include a written provision that any action that purports to assign the sublease without the written approval of LESSOR and LESSEE shall immediately terminate the sublease.
- F. No sublease shall be granted by LESSEE for less than adequate and full consideration. Such consideration may take the form of monetary payments as well as the construction of suitable permanent improvements and such other in-kind services as may be appropriate. The LESSOR expects that proposed sublease rates shall be established by comprehensive review of market rates for comparable space at similarly situated airports. LESSEE shall utilize a competitive bidding process for the award of subleases if it determined that such a process is required by law. Proposed rates shall be subject to review and approval by LESSOR.
- G. In discharging its management and administrative responsibilities pursuant to this Agreement, LESSEE shall ensure that all commercial sublessees provide

reasonable minimum levels of service. Minimum service specifications and compliance requirements shall be set forth in sublease solicitation documents and/or sublease agreements.

H. LESSOR reserves the right to direct LESSEE to terminate or cancel any sublease for any other of the reasons that this Agreement may be cancelled or terminated.

19. **Assignment or Transfer.** LESSEE shall not transfer any right title or interest in the airport premises or property located thereon without the express written consent of LESSOR except as expressly provided in this Agreement. Nothing in this Agreement shall prohibit LESSOR from assigning or otherwise transferring its right, title or interest in the premises and/or any property located thereon to another party or from assigning its rights and obligations as set forth in this Agreement. In the event of such transfer, it is understood that LESSOR's successor in interest shall be bound by the applicable terms and conditions of this Agreement. DDW

20. **Procurement of Goods and Services.** In the erection, improvement and repair of all buildings, structures, works, runways, improvements, fixtures and personal property, and in furnishing supplies and materials for same or for other use by the LESSEE having a value in excess of \$10,000, LESSEE shall advertise for bids for the work contemplated and for furnishing such supplies and materials and shall require sealed bids or proposals. Any such contract shall be let to the lowest responsible bidder. Where appropriate, the LESSEE may reject all bids and re-advertise for new bids. Agreements for the purchase of goods and services in excess of \$10,000 are subject to prior approval by LESSOR. For purchases of goods or services below \$10,000 LESSEE may utilize other procurement procedures as approved by LESSOR.

21. **Accounts.** LESSEE shall keep complete and accurate books, records and accounts in regard to the financing, refinancing, construction, operation and maintenance of the premises from which all revenues and expenses can be readily determined. Such books and records shall be open to inspection by LESSOR's designated representatives during regular business hours. Copies or abstracts may be taken therefrom by LESSOR's designated representatives.

22. **Annual Audit.** All accounts related to LESSEE's operations pursuant to this Agreement shall be audited annually, at LESSEE's expense, by a certified public accountant. Selection of the auditor shall be subject to the approval of LESSOR. A copy of the draft audit report shall be provided to the LESSOR no more than 120 days after the conclusion of the LESSOR's fiscal year. A copy of the final audit report, together with LESSEE's written responses to the audit findings, shall be provided to the LESSOR within 175 days of the conclusion of LESSOR's fiscal year. If so requested by LESSOR, LESSEE's Board of Directors and/or administrator shall meet with LESSOR's designated representatives to review the audit findings. LESSOR deems it essential to its interests in ownership and proper operation of the airport to receive audit information in a timely fashion. In the event that either of the audit reports are not provided by the specified deadlines, LESSOR may, at its option, commission or complete the annual audit and charge the cost to LESSEE.

23. **Annual Revenue and Expenditure Budget.** For the purpose of assuring LESSOR that the LESSEE is achieving the stated objectives of this Agreement, LESSEE shall submit to LESSOR, no less than 75 days prior to the start of LESSEE's fiscal year, a detailed statement of projected revenues and expenditures for that fiscal year covering all portions of LESSEE's operations conducted pursuant to this Agreement. The budget submissions shall be in a form acceptable to LESSOR.

Within a period of 45 days after submission of the proposed budget, the LESSOR shall notify the LESSEE of its approval or disapproval thereof. If the proposed budget is approved by the LESSOR it shall constitute LESSEE's adopted budget for the subject fiscal year. If the proposed budget is disapproved, the LESSOR and LESSEE shall meet within ten (10) days of notification of disapproval to resolve any areas of disagreement. Failure by LESSOR to act on the proposed budget within the 45-day period shall be deemed approval of same.

If a satisfactory agreement is not reached within ten (10) days of the initial meeting, either party shall have access to any court of competent jurisdiction. In the alternative, by agreement of the parties, the dispute may be referred for mediation, arbitration or other dispute resolution process. In the event that it is determined that either party has acted in so arbitrary and capricious a manner as to constitute a display of bad faith, the other party may be entitled to reasonable attorney's fees.

It expressly understood and agreed that LESSOR is not obligated to approve any proposed budget that would require a contribution or other payment from LESSOR or from any other source unless such contribution or payment has been formally approved by the designated source prior to submission of the proposed budget.

Once LESSEE's adopted budget is approved and adopted, as provided herein, it shall not be amended without formal written approval by LESSOR. LESSOR shall act on proposed budget amendments no later than 45 days after submission by LESSEE. Failure by LESSOR to act on the proposed budget within the 45-day period shall be deemed approval of same.

24. **Annual Report.** LESSEE shall deliver to LESSOR, no later than the date of delivery of the annual revenue and expenditure budget, a complete report summarizing the financing, refinancing, construction, operation and maintenance of the airport premises for the prior fiscal year. The Annual Report shall be in a form acceptable to LESSOR.
25. **Indemnification and Insurance.** LESSEE shall save, hold harmless and indemnify LESSOR from any claims, causes of action, judgments or other costs, including reasonable attorney's fees arising from acts or omissions pursuant to LESSOR's performance pursuant to this Agreement unless such claims, causes, judgments or other costs arise solely from LESSOR's negligent acts or omissions.

LESSEE further agrees to obtain and maintain policies of insurance to include general liability, property damage, hangar keeper's liability, fire insurance and such other coverages as may be necessary to protect LESSEE and LESSOR from claims, causes of action, judgments and other costs, including reasonable attorney's fees arising from acts or omissions pursuant to LESSEE's performance pursuant to this Agreement. Minimum policy limits shall not be less than \$2,000,000 per occurrence for general liability insurance. Fire and property damage policy limits shall be sufficient to cover the replacement of real and personal property located on the premises. LESSOR may require increases in the policy limits as necessary to reflect its assessment of the magnitude of potential risks. All such policies shall name LESSOR as an additional insured.

LESSEE shall pay the premiums for all required policies and shall require that any insurance proceeds resulting from a loss or damage to property under such policies are payable jointly to the LESSOR and LESSEE in order that proceeds will be reinvested in rebuilding or repairing the damaged property. All insurance proceeds received as a result of loss or damage to property on the airport premises from any source whatever shall accrue to the benefit of the airport. While it is understood and agreed that such funds are

to be expended solely for the benefit of the airport such expenditures may be deferred for later use in accordance with a development/capital improvement plan approved by LESSOR pursuant to this Agreement.

LESSEE shall provide current certificates of insurance for all coverage. LESSEE shall advise LESSOR of any proposed changes in the amount or extent of coverage at least 15 days prior to the effective date of such changes and shall file updated certificates as required to reflect such changes.

26. **Bylaws.** LESSEE shall enact bylaws to establish procedures for the conduct of its activities pursuant to this Agreement. LESSOR shall submit proposed bylaws, or amendments thereto, to LESSOR no less than 30 days prior to the date set for approval by LESSEE. LESSOR reserves the right to disapprove any bylaws or amendments which it determines to have an actual or potential adverse impact on LESSOR's interests as set forth in this Agreement.
27. **Board of Directors.** No person may serve on the Board of Directors unless approved by LESSOR or its successor in interest prior to election or re-election. LESSOR shall review the list of persons submitted for consideration and shall approve or disapprove each name submitted. If LESSOR or its successor in interest does not approve or disapprove a list or name submitted within 45 days of submission, that list or name shall be deemed approved. LESSOR may prepare its own list, or add to a submitted list, names of persons approved by Yavapai County or its successor in interest for election and shall deliver such names to the LESSEE. Biographical information shall be provided for each candidate for election whether submitted by the Sedona Airport Administration or Yavapai County or its successor in interest. LESSEE shall establish procedures for selection and removal of its Board of Directors consistent with these provisions and include such procedures in its bylaws.
28. **Conflicts of Interest.** LESSOR deems it essential that actions of LESSEE's Board of Directors are in accord with the interests of LESSEE, LESSOR and the public. Accordingly LESSEE shall include in its bylaws a provision requiring its Board members, officers and employees to adhere to the provisions of the State of Arizona conflict of interest statutes, A.R.S. §38-501 *et seq.*
29. **Open Meeting Laws.** Since LESSEE's activities affect significant public interests, its decision processes must be visible to the public. LESSEE shall be considered a public body pursuant to A.R.S. §38-431(5). LESSEE shall include in its bylaws a provision requiring its Board of Directors, Board members and employees to adhere to the provisions of the Open Meeting Laws of the State of Arizona, A.R.S. §38-431 *et seq.*
30. **Public Records.** LESSEE's records shall be considered public records and are subject to public disclosure as required by law for such records. LESSEE shall include in its bylaws a provision requiring its Board of Directors, Board Members and employees to adhere to the Public Records Laws of the State of Arizona. A.R.S. §38-421 *et seq.* and §39-121 *et seq.*
31. **Consultation With Lessor.** It is understood and agreed that LESSOR, as owner of the airport premises, has an ongoing interest in proper performance of management and administration activities at the airport. In furtherance thereof, LESSEE agrees to consult with LESSOR's designated representatives on matters of planning, policy development, management and administration and shall provide such periodic activity reports as may be requested by LESSOR.

32. National Emergency. During time of war or national emergency, LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and or other area of facilities of the airport. If such an agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the government agreement, shall be suspended. Any such agreement shall be the sole responsibility of LESSOR. The LESSOR may contract with LESSEE to administer or otherwise discharge LESSOR's obligations pursuant to such agreement on such terms and conditions as may be mutually acceptable to the parties.

33. Subordination to Federal Agreements Generally. This agreement shall be subordinate to the provision of any existing agreement between LESSOR and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

34. Condemnation or Acquisition by Others. In the event that the demised premises or any part thereof, or the right and interest of LESSEE in or to the premises or any part thereof shall be condemned, taken or acquired by a body having superior power of eminent domain, any compensation or award therefor shall be payable in accordance with the following provisions:

A. Out of said compensation or award, there shall be paid to LESSEE an amount equal to the sum of the following:

1. The amount required to redeem LESSEE's bonds or to pay any of LESSEE's obligations issued or incurred for airport and air terminal purposes and outstanding at the time title vest in the condemning power at the earliest dates after such decree of judgment when any such bonds may be called for redemption or such obligations may be paid, or if any such bonds or obligations are not subject to call or immediate payment, then the amount required to redeem or pay them at their maturity; less the following items
 - a. The assets of any sinking fund established for the redemption of any bonds or other obligations issued, insured or assumed for airport and air terminal purposes, including interest thereon.
 - b. The proceeds remaining unexpended from the sale of any and all bonds issued, incurred or assumed for airport and air terminal purposes;
 - c. Any cash set aside for redemption of bonds issued in payment of any obligations incurred or assumed for airport and air terminal purposes;
2. The interest on any such bonds or obligations from the last interest payment due prior to the vesting of title in the condemning power up to the date of such call or maturity;
3. The call premium, if any;
4. Any unamortized funds of LESSEE, other than bond or other obligation proceeds, of Federal, State or City grants, expended for capital improvements at the airport or air terminal.

- B. The balance, if any, of such compensation or award shall be paid to LESSOR, or if LESSEE remains intact and viable and if the remaining property is sufficient to continue airport and air terminal operations to the LESSEE for continuing airport and air terminal purposes.
 - C. The amount paid to LESSEE as provided herein shall, together with any funds remaining unexpended for airport and air terminal purposes from the proceeds of any such bonds or obligations, be set aside in a special fund. If, after payment of redemption of all of said bonds and obligations with interest and after the deduction of unamortized funds of LESSEE as aforesaid, there shall remain any balance in said special fund, including income and appreciation thereon, and if the Airport can no longer be operated, LESSEE shall pay such balance to LESSOR.
 - D. If the whole of said demised premises or the right and interest of LESSEE shall be condemned, taken or acquired, as aforesaid, then no further rental shall be payable hereunder. If only part of the said demised premises or if only part of the right and interest of the LESSEE is condemned, taken or acquired and is such part is so substantial as to make it impractical to proceed with the operation of the demised premises for airport or air terminal purposes, no further rental shall be payable; provided, however, that possession of the demised premises remaining shall be promptly surrendered to LESSOR as if the term, hereof, shall have come to an end.
 - E. If, however, only a part of said demised premises or of the right and interest of LESSEE in or to the same shall be condemned, taken or acquired, and the remaining is sufficient to conduct the operation thereof for airport and air terminal purposes, the obligations of LESSEE under the provisions of this Agreement relating to rent as well as under other provisions of this Agreement, shall continue and remain unaffected by such condemnation, taking or acquisition.
- 35. Termination by LESSOR.** LESSOR may terminate this Agreement prior to its expiration date in the event of any of the following:
- A. Filing of a petition, voluntarily or involuntarily for the adjudication of LESSEE as a bankrupt.
 - B. Any general assignment by LESSEE for the benefit of creditors
 - C. The any act or occurrence which deprives the LESSEE permanently of the ability to perform its obligations pursuant to this Agreement except suspension of operations resulting from war or national emergency.
 - D. The abandonment of operations at the airport by LESSEE
 - E. LESSEE's failure to adhere to any and all of the terms and conditions of this Agreement after notice and opportunity to correct said deficiencies as provided in this subsection. LESSOR shall provide written notice to LESSEE specifying the nature of the alleged violations. LESSEE shall have 30 days from the date of its receipt of said notice to correct the deficiencies noted and shall be granted an additional 30 days for compliance in the event that LESSEE furnishes satisfactory evidence that it is continuously and diligently attempting to correct such default or breach.

36. **Termination by LESSEE.** LESSEE may terminate this agreement prior to its expiration date if the LESSOR fails to abide by any of the terms and conditions of this Agreement after the expiration of 30 days from the date written notice has been given to LESSOR by LESSEE to correct such default or breach provided that LESSEE shall extend the notice period for an additional 30 days in the event that LESSOR furnishes satisfactory evidence that it is continuously and diligently attempting to correct such default or breach.

37. **Discrimination.** In its operation of the airport, ~~LESSEE~~ understands and agrees to the following: *LESSEE* *ADW*

A. No person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the airport facilities.

B. In the construction of any improvements on, over or under the airport premises or the furnishing of services thereon, no persons shall be excluded from participation or otherwise subjected to discrimination on the basis of race, color, sex or national origin.

C. LESSEE shall maintain and operate the airport premises in compliance with all other requirements imposed by *Title 49, Code of Federal Regulations, Department of Transportation Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*, and as said regulations may be amended.

D. Failure to comply with Sections 6 or 37 of this Agreement shall constitute a material breach thereof and in the event of such non-compliance, LESSOR may terminate this Agreement and the estate created without liability therefore. In the alternative, LESSOR or the United States or both entities may take actions as necessary to judicially enforce the above-referenced provisions of the Agreement.

E. LESSEE will, to the extent required by statute, regulation or rule, undertake an affirmative action program as set forth in *14 CFR Part 152, subpart E* to ensure that no person shall be excluded from participation in any covered employment activities or participation in or receipt of any services or benefits of any program covered by this subpart.

F. LESSEE shall insert the above provisions of this Section 36 in any sublease, license or other grant of authority to any person, firm or corporation to provide accommodations and/or services to the public on the airport premises.

38. **Inspection.** LESSOR reserves the right at all times of free access to all portions of the premises for purposes of inspection.

39. **Notices.** All written notices required to be sent by either party to the other shall be forwarded by certified mail addressed as follows:

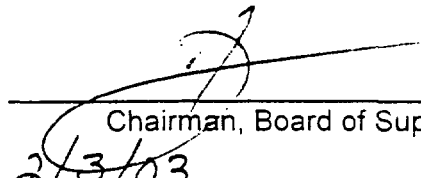
LESSOR: Board of Supervisors, Yavapai County
1015 Fair Street, Prescott, AZ 86301

LESSEE: Board of Directors, Sedona Airport Administration
235 Air Terminal Drive, Sedona, Arizona 86336

40. **Waiver.** Waiver of any provision of this Agreement by either party shall not constitute a waiver of any other provision of the agreement nor of any subsequent breach of any provision of the agreement.
41. **Entire Agreement.** This Lease Agreement sets forth all the promises, leases, conditions between LESSOR and LESSEE relative to the Premises, and there are no promises, leases, conditions or understandings, either oral or written, between them other than as are herein set forth. No alteration, amendment, change or addition to the Lease shall be binding upon LESSOR or LESSEE unless reduced to writing and signed by them.
42. **Time of the Essence.** Time shall be of the essence with respect to all dates and time periods set forth in this Lease.
43. **Severability.** In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained.
44. **43. Required Provisions.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. Upon the application of either party, any required provisions not inserted or inserted incorrectly, shall be inserted or corrected by Amendment to the Agreement.
45. **Applicable Laws.** This Agreement has been made in the State of Arizona and shall be governed and interpreted in accordance with the laws of the State of Arizona.

APPROVALS

LESSOR: YAVAPAI COUNTY



Chairman, Board of Supervisors
2/3/03


Date

ATTEST:



Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney

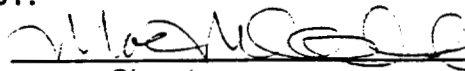
LESSEE: SEDONA AIRPORT ADMINISTRATION



President, Board of Directors

1-27-03
Date

ATTEST:



Signature

GENERAL MGR. (SA)
Title

SedonaMasterLease11703

Be: x ~~54~~
210 6028

LICENSE AGREEMENT

BUCHANAN FIELD AIRPORT

This License Agreement ("**Agreement**") by and between Contra Costa County hereinafter called ("**County**") and , a California Corporation, hereinafter called ("**Licensee**"), shall be effective . County is the owner of the real property known and designated as Buchanan Field Airport located in Contra Costa County, California, hereinafter called ("**Airport**"). Licensee desires to obtain access to the Airport to provide .

1. **GRANT OF LICENSE:** Subject to the terms and conditions of this Agreement, County hereby grants to Licensee a nonexclusive, revocable license to enter onto the property shown in Exhibit "A", attached hereto, for the purposes described herein.

2. **USE:** The licensed premises may be used by Licensee only for providing , and shall be used for no other purpose without the prior written approval of the Manager of Airports.

3. **TERM:** This License Agreement shall commence on , and may be terminated by County at any time, for any reason, with or without cause on thirty (30) days written notice to Licensee. However, in addition to those termination provisions described in Section 6 Sublease Agreement, County may terminate this Agreement at any time on five days written notice to Licensee in the event of a violation on Licensee's part of any term or condition of this Agreement.

4. **FEES:** Beginning , as consideration for this Agreement, Licensee agrees to pay a monthly concession fee ("**Concession Fee**") equal to two percent (2%) multiplied times the monthly gross income from all gross receipts related to Licensee's business on the licensed premises. The Concession Fee shall be calculated each and every month and shall be paid to the County on or before the first day of each month while this License Agreement is in effect, as described below.

All checks should be made payable to BUCHANAN FIELD AIRPORT and should be mailed to: Manager of Airports, 550 Sally Ride Drive, Concord, CA 94520, or as otherwise determined by the County. The monthly Concession Fee shall be paid in accordance with the following provisions:

A. Licensee shall make payments of Concession Fees to the Manager of Airports not later than the 20th day of each month representing business completed

during the previous month. If the Concession Fee is received by the County after the 20th day of the month, the Concession Fee shall be delinquent, and shall be subject to additional fees as described in Section 5. Delinquent Fees, herein below.

B. A gross monthly income report ("**Monthly Report**") will be submitted with each payment. The Monthly Report will list the total gross income and the individual totals for each income source resulting from all of Licensee's services provided under this Agreement during the previous month. The Monthly Report shall be dated, signed and approved as correct for submission to the Manager of Airports by Licensee or an authorized officer of Licensee's company.

C. At the end of each calendar year, Licensee shall submit to County, an annual income report ("**Annual Report**"). Licensee shall, at all times, keep and maintain a full and complete set of books and records which shall accurately show Licensee's annual income at the Airport for the present and three (3) previous income tax years. Said books and records shall at all reasonable times be open for inspection by County's duly authorized representatives.

D. County reserves the right to inspect Licensee's books and records to determine the accuracy of the Licensee's Monthly and Annual Reports.

E. The County reserves the right to revise and/or amend the Licensee's reporting requirement at any time.

5. **DELINQUENT FEES**: In the event that Licensee shall become delinquent in paying to County any payments due under paragraph 4. FEES hereinabove for a period of ten (10) days or more after written notice by County, Licensee shall pay to County interest on said unpaid balance at a rate of one and one-half percent (1.5%) per month, to be prorated if necessary, from the date said unpaid balance was due and payable until paid in full.

6. **SUBLEASE AGREEMENT**: It is hereby acknowledged by the parties hereto that Licensee has entered into a sublease agreement ("**Sublease Agreement**") with , ("**sublessor**") for Licensee's occupancy of Suite #2 of the Fixed Base Operation located at on the Buchanan Field Airport ("**FBO premises**"). Upon the expiration or earlier termination of said Sublease Agreement, this License shall immediately terminate.

7. **AIRPORT ACCESS**: Manager of Airports shall designate the route and method of ingress and egress to and from Airport.

8. **SIGNAGE**: All of Licensee's proposed signage shall be submitted to the Manager of Airports for prior written approval. Upon said written approval, Manager of Airports shall designate a suitable location on the Airport for

Licensee's installation of the approved sign. Airport reserves the right to reject or to have Licensee's signage modified until it is deemed to be suitable for installation. County further reserves the right to remove or have removed, at Licensee's expense, all signage installed without County's prior approval.

9. **PERMITS AND APPROVALS**: Licensee shall be responsible for obtaining any permits or approvals from any agency having jurisdiction.

10. **INSURANCE**: Licensee agrees, at no cost to County, to obtain and maintain during the entire duration of this Agreement, a comprehensive liability insurance policy with a minimum combined single-limit coverage of One Million and no/100 dollars (\$1,000,000.00) for all claims and losses due to bodily injury, or death to any person, or damage to property, including loss of use thereof arising out of each accident or occurrence, and agrees to name Contra Costa County, its officers, agents, and employees as an additional named insured thereunder. Said coverage shall provide for a thirty (30) day written notice to County of cancellation or lapse. A Certificate of Insurance, evidencing such coverage shall be furnished to County prior to the start of this Agreement.

11. **DEPOSIT**: Prior to the commencement date of this Agreement, Licensee shall deposit the amount of Five Hundred and No/100 Dollars (\$500.00) with the Manager of Airports. Said deposit will be returned to Licensee within thirty (30) days after the end of the term of this Agreement, minus any outstanding amount due to the County.

12. **HOLD HARMLESS**: Licensee shall defend, indemnify, save, protect, and hold harmless County its officers, agents, and employees from and against all liabilities, judgments, claims, costs, and expenses arising directly or indirectly out of or connected with the operations of Licensee, its agents, servants, employees, business invitees, or subcontractors, any act taken by Licensee, its agents, servants, employees, business invitees or subcontractors, pursuant to this License, or otherwise related to the granting of this Agreement, save and except claims or litigation arising from the sole negligence or sole willful misconduct of County.

13. **WASTE; HAZARDOUS SUBSTANCES**: Licensee shall not commit, or suffer or permit the commission of any waste upon the premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of the use of the Buchanan Field Airport, or surrounding property. Licensee shall not, and shall ensure that no others on the premises shall, store or dispose of any hazardous materials which are, or during the term of the License become, regulated by any

local government authority, by the State of California, or by the United States government.

Licensee shall not permit any activity on the premises which directly or indirectly produces unlawful amounts for levels of air pollution (gases, particulate matter, odors, fumes, smoke, or dust), water pollution, noise, glare, heat emissions, electronic or radio interference with navigational and communication facilities for the operation of the Airport and for its use by aircraft, trash or refuse accumulation, vibration, or which is hazardous or dangerous by reason or risk of explosion, fire or harmful emissions. Airport shall have the right to enter the premises at any time to verify Licensee's conformance with the provisions of this paragraph.

14. ASSIGNMENT AND TRANSFER: Licensee shall not assign or transfer Licensee's right under this Agreement. Licensee's assignment or transfer of Licensee's rights hereunder shall be cause for County's immediate revocation of this Agreement.

15. ALTERATION OF TERMS AND CONDITIONS: The County reserves the right to alter, amend, and/or change the terms and conditions of this Agreement upon thirty (30) days prior written notice to Licensee.

16. INSTRUMENT OF TRANSFER AND NON-DISCRIMINATION COVENANTS:

Conditions:

A. Instrument of Transfer: This Agreement shall be subordinate and subject to the provisions and requirements of the Instrument of Transfer by and between the United States and County dated the 9th day of October, 1947, and recorded in Book 1137, at page 114 of Official Records of Contra Costa County, California. This Agreement shall be subordinate to the provisions and requirements of any future agreement between the County and the United States, relative to the development, operations, and/or maintenance of the Airport.

B. Non-Discrimination:

(1) Licensee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. Licensee assures it will require that its covered suborganizations provide assurances to Licensee that they similarly will

undertake an affirmative action program and that they will require assurances from their suborganizations, as required by 14CFR Part 152, Subpart E, to the same effect.

(2) In the event of breach of any of the above non-discrimination covenants, County shall have the right to terminate this Agreement as if said Agreement had never been made or issued.

(3) Licensee agrees to furnish service on a fair, equal, and non-discriminatory basis to all users thereof, and to charge fair, reasonable, and non-discriminatory prices for each unit of sales or service, provided, that Licensee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Furthermore, Licensee shall neither discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, national origin, sex or age in any manner, including, but not limited to, discrimination prohibited by applicable Federal Aviation Regulations.

(4) Non-compliance with paragraph (3) above shall constitute a material breach thereof and a default of this Agreement by Licensee and, in the event of such non-compliance, County shall have the right to terminate this Agreement created without liability therefore, or at the election of the County or the United States, either or both said Governments shall have the right to judicially enforce the provisions of paragraphs (2) and (3) of this section.

17. GENERAL PROVISIONS:

A. County reserves the right to further develop or improve the Airport as it sees fit, regardless of the desire or view of Licensee and without interference or hindrance from Licensee.

B. County reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Licensee from erecting or permitting to be erected any building or other structure on the Airport which, in the sole opinion of the County, would affect the usefulness of the Airport or constitute a hazard to aircraft.

County, in exercising the rights stated in this subparagraph B, shall not be held liable to Licensee for the expense, any loss or damage to Licensee resulting or arising from County's removal of any aerial obstructions.

C. Neither the failure of County to strictly enforce all of the terms of this Agreement nor the acceptance of payment by County after any breach by Licensee nor any delay on the part of County to strictly enforce the provisions hereof, shall operate or be deemed a waiver of any rights or remedies accruing by law or by this Agreement to County by reason of any subsequent breach.

D. In the event that any provisions herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provisions does not

materially prejudice either County or Licensee in its respective rights and obligations contained in the valid provisions of this Agreement.

E. It is understood, that Licensee's rights provided for under this Agreement at Airport are non-exclusive. County retains the right to enter into other agreements which might authorize similar use of the Airport and Airport facilities, and such authorization shall be at the sole discretion of County.

F. Time is of the essence for each provision in this Agreement.

18. **NOTICES**: Any and all notices, requests, consents, approvals or communication that either party desires or is required to give to the other party under this Agreement or otherwise, shall be in writing and either served personally or sent by prepaid first-class mail and shall be effective from the date of the mailing of the same. For the purposes thereof, unless otherwise provided in writing by the parties hereto, the address of the County and the proper party to receive any such notices, requests, consents, approvals or communication on its behalf is:

Contra Costa County
c/o Manager of Airports
Buchanan Field Airport
550 Sally Ride Drive
Concord, CA 94520

and the address of Licensee is:

19. **ENTIRE AGREEMENT**: This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. No alterations or variations of this Agreement shall be valid or binding unless made in writing and signed by both parties hereto.

SIGNATURES

CONTRA COSTA COUNTY

By

J. Michael Walford,
Public Works Director

RECOMMENDED FOR APPROVAL:

By
Harold E. Wight,
Manager of Airports

By
Dick R. Awenius,
Airports Lease Manager

LICENSEE:

- 90-14033

THIS LICENSE is granted this 4th day of February, A.D., 1990 and effective as of June 1, 1990 by the CITY OF PHILADELPHIA, a municipal corporation of the Commonwealth of Pennsylvania, through its Department of Commerce (hereinafter called "Licensor"), to VIA-AIR, INC., a corporation and qualified to do business under the laws of the Commonwealth of Pennsylvania (hereinafter called "Licensee");

W I T N E S S E T H:

WHEREAS, Licensor is the owner and operator of NORTHEAST PHILADELPHIA AIRPORT, Philadelphia, Pennsylvania, (hereinafter called "Airport"); and

WHEREAS, Licensee is in the business of operating a Flight Training School and wishes to be granted the right to conduct this business at said Airport;

NOW, THEREFORE, Licensee and Licensor agree to be bound as follows:

1. PRIVILEGES GRANTED; STANDARDS

(a) Licensor hereby grants to Licensee, in common with other authorized persons, the following privileges:

(1) The privilege of operating a Flight Training School, including actual and simulated air and ground related training;

(2) The sale of "student" pilot supplies including text books, log books, maps, charts, compasses and navigational computers. Pilot supplies normally offered by Fixed Base Operators are not permitted to be for sale; and

(3) Such other related privileges as may be approved in writing by Licensor from time to time, subject to such terms and conditions as are mutually agreed upon at the time of the approval.

(b) Licensee's use of the Airport in connection with this License shall be for the exercise of the rights and privileges herein specified and strictly limited to those expressly granted and for no other purpose. This License is not intended to be construed as a lease of premises.

(c) Revenue producing aircraft activity such as charter flights, aircraft sales or rentals and sales of aircraft parts are not permitted.

(d) In the operation of Licensee's business, Licensee for its self and its employees agrees to:

(1) Furnish good, prompt, and efficient service, adequate to meet all the demands for its service at the Airport, and furnish said service on a fair, equal, and non-discriminatory basis to all users thereof, and charge fair, reasonable and non-discriminatory prices for each unit of sale or service; provided that Licensee may make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions.

(2) Make every effort to assure that all persons engaged in its operation conduct themselves in an orderly manner at all times and display Licensor's approved Airport identification.

(e) Licensee shall provide a complete and proper arrangement for the frequent and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Licensee shall provide and use suitable covered metal receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels, pallets, or other similar items, in an unsightly or unsafe manner, on or about the leased premises, is forbidden.

2. TERM

(a) The term of this License shall be for a period of one (1) year commencing June 1, 1990 and terminating May 31, 1991.

(b) This License, is subject to termination for Licensor's convenience, upon thirty (30) days prior written notice to Licensee. The exercise of any right of termination hereunder shall be without liability against Licensor for any damages or loss of profits which may be suffered by reason of such termination.

3. FEEES AND CHARGES; RECORDS

(a) During the initial term Licensee shall pay Licensor a fee in the amount of five percent (5%) of the gross revenues receivable by Licensee, whether collected or uncollected, in connection with the Flight Training School privilege granted herein in Article 1(a).

(b) During both the initial term and any renewal term Licensee shall pay Licensor landing fees in accordance with the schedule of landing fees that is established from time to time by Licensor.

(c) Charges and fees are applicable regardless of reason for landing or delays and are subject to change from time to time as established by Licensor.

(d) Licensee shall submit to Licensor, not later than ten (10) days after the close of each calendar month, a certified statement showing the number of landings during the previous month, and indicating the number of landings with each make and model of aircraft.

(e) Licensee shall submit to Licensor, not later than ten (10) days after the close of each calendar month, a certified statement showing all revenue generated from the Flight School activities authorized herein.

(f) Licensee shall furnish to Licensor and keep current, a complete schedule of aircraft used in the operation of these services. The schedule shall include make, model, type, year of manufacture, and current aircraft registration number.

(g) Licensee shall keep full and complete books of account and other records relating to the provisions and requirements of this License and in so doing shall comply with the minimum procedural requirements prescribed by Licensor. Licensor, through its duly authorized representative, shall have the right to inspect and audit Licensee's books of account and other records at all reasonable time during normal business hours. Licensee shall retain said records for a period of three (3) years and upon Licensor's request shall make such records available to Licensor for audit at the Airport or at some other mutually agreed upon location. Should adequate records not be made available by Licensee at the appointed location, then the additional cost of said audit including all reasonable travel, food, and lodging expenses incurred by Licensor shall at the Licensor's discretion be borne by Licensee.

(h) Licensee shall, within sixty (60) days after the end of the contract year, or at such other intervals as Licensor may prescribe, submit to Licensor a written statement certified by an independent certified public accountant stating that, in the accountant's opinion, payments for all fees and charges due hereunder for the preceding year were made in accordance with the terms of this License

4. INSURANCE

Licensee shall maintain a policy or policies of liability insurance to insure itself against liability for injury or damage to persons and property, and such other policies as are necessary to insure any other obligations incurred herein. The said policies will be in the minimum amounts set forth below or such greater amounts as the Licensor shall, from time to time, require or approve:

Airport Liability - \$1,000,000.00 Single Limit
Aircraft Liability - \$1,000,000.00 Single Limit
(including passengers)

All said policies shall name Licensor as an additional insured and shall also incorporate the following cross liability endorsement or provision:

"CROSS LIABILITY: It is understood and agreed that the insurance afforded by this policy or policies for more than one named insured shall not operate to increase the limits of the companies' liability, but otherwise shall not operate to limit or void the coverage of any one named insured as respects claims against the same named insured by any other named insured or the employees of such other named insured".

5. SURETY

Licensee will give security, on or before execution of this License to insure faithful performance of its duties and obligations hereunder, in the form of a performance bond with an approved surety company as surety thereon in an amount equal to Five Thousand Dollars (\$5,000.00).

6. GENERAL TERMS AND CONDITIONS

This License is subject to the "License General Terms and Conditions" attached hereto as Attachment "I", which are incorporated herein and made a part hereof.

7. NOTICES

Notices provided for herein shall be sufficient if sent by registered mail, postage prepaid; for Licensor, addressed to the Director of Aviation, Division of Aviation, Philadelphia International Airport, Philadelphia, Pennsylvania 19153, and for Licensee addressed to: Fred Katz, Via-Air, Inc. Hangar A Northeast Philadelphia Airport, Philadelphia, PA 19114 or to such other respective addresses as the parties may, from time to time, designate to each other in writing.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF PHILADELPHIA:

BY: [Signature]
Dir. of Commerce

Approved as to Form
CHARISSE R. LILLIE, City Solicitor

PER: [Signature]
Deputy City Solicitor

BY: VIA-AIR, INC. [Signature]
TITLE: Pres.
Pres./Vice Pres./
Ass't. Vice Pres.

ATTEST: [Signature]
TITLE: Corp. Sec'y
Corp. Sec'y./Ass't. Sec'y./
Treas./Ass't. Treas.

CORPORATE SEAL:

ATTACHMENT "I"
LICENSE GENERAL TERMS AND CONDITIONS

1. Common Areas

Licensee shall have the right, in common with others so authorized, to the use of the common areas of the Airport and appurtenances thereto, and any additions thereto which may be designated by Licensor for common use together with the facilities, equipment, improvements and services which have been or may hereafter be provided at the Airport for common use, subject, however, to the regulations and practices, and the payment by Licensee of such rates and charges, as may be applicable thereto at the time of such use.

2. Payment of Fees

(A) All applicable fees (hereinafter called "license fees" shall be due and payable within twenty (20) days after the end of each calendar month.

(B) Licensee shall pay all miscellaneous charges, including such charges as, for example, trash removal, not later than thirty (30) days after mailing or transmittal of an invoice by Licensor to Licensee.

(C) All payments due hereunder shall be made payable to the City of Philadelphia and mailed to the Licensor at the address set forth in the section of this License entitled "Notices". Payments made by check shall be received by the Licensor subject to collection. Licensee agrees to pay on demand by Licensor any charges incurred by Licensor for collection.

(D) Licensee shall pay the license fees and all other fees and charges herein reserved at such time and place as the same are made payable. If Licensee fails to make any payments within ten (10) days of the due date, Licensor may, as of the first (1st) day, impose an interest charge of one hundred and twenty-five percent (125%) per annum of the prime rate of First Pennsylvania Bank N.A. (or its equivalent in the event there shall be no prime rate) on all late amounts due from the first (1st) day until fully paid. "Prime rate" as used herein shall mean that prime rate existing as of July 1 of the then current fiscal year (July 1 to June 30) of the City of Philadelphia.

3. Signs

Licensee shall not, without the prior written approval of Licensor, erect, maintain or display any signs at any location on the Airport. In addition to Licensor's approval, which shall not be unreasonably withheld or delayed, Licensee shall at its sole cost and expense obtain the approval of all other local, state and federal agencies as may be required.

4. Personnel

Licensee shall appoint a local representative who shall have the authority to make day to day business decisions and shall be responsible for coordinating all activities with the Licensor. The name, address and telephone number of the local representative is to be submitted to Licensor and Licensor is to be notified of any changes related to the local representative.

5. Subletting - Assignment

Licensee shall not sublicense or assign the rights granted under this License, in whole or in part, without obtaining the prior written consent of Licensor. In the event such sublicensing or assignment is approved by Licensor, such approval shall in no way relieve Licensee of any contractual obligations assumed under this License unless Lessor specifically consents thereto.

6. Laws - Regulations

(A) Licensee shall observe and comply with any and all requirements of the constituted public authorities and with all federal, state, or local statutes, ordinances, regulations, and standards applicable to Lessee or its activities, including, but not limited to, the Fair Practices Ordinance, Philadelphia Code Chapter 9-1100 and rules and regulations issued from time to time by Licensor's Division of Aviation and other authorities having jurisdiction over any phase of operation in and about the Airport.

(B) Licensee shall not furnish, maintain, store, or cause or permit to be furnished, maintained or stored, gasoline, fuels, lubricants, or other flammable materials on the Airport without the prior written consent of Licensor.

7. Non-Discrimination

(A) Local Requirements

(1) This License is entered into under the terms of the Philadelphia Home Rule Charter and the Philadelphia Code. In the exercise of the privileges herein granted, Licensee shall not discriminate nor permit discrimination against any person because of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap.

(a) In furtherance of this covenant but without limitation thereto, Licensee agrees to provide equal employment opportunities in connection with the exercise of the privileges herein granted. Licensee further agrees:

(i) Not to discriminate nor permit discrimination against any employee or applicant for employment with regard to hiring, tenure of employment, promotion, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap.

(ii) To keep posted in conspicuous and readily accessible places customarily frequented by applicants for employment, and in at least one place customarily frequented by employees at or near such location where services are performed by such employees, copies of notices provided by the Commission on Human Relations setting forth the substance of subsection (i) of this paragraph.

(iii) Not to discriminate in the subleasing of any Premises demised hereunder or in the granting of any privileges to any sublicensee hereunder because of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap.

(iv) To insert the provisions of subsections (i), (ii) and (iii) of the paragraph as covenants to be performed by the sublessee in all sublicense contracts which are entered into by Licensee hereunder.

(2) Licensee covenants and agrees that in accordance with Chapter 17-400 of the Philadelphia Code payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap constitutes a substantial breach of this License entitling Licensor to all rights and remedies provided in this License or otherwise available in law or equity.

Licensee agrees to include the immediately preceding paragraph, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for work to be performed pursuant to this License.

Licensee further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this License entitling Licensor to all rights and remedies provided herein or otherwise available in law or equity.

(B) Federal Requirements

(1) Licensee covenants and agrees that in order to confirm the assurance required by the City of Philadelphia by Title VI of the Civil Rights Act of 1964 and by 49 CFR Part 21 of the regulations governing the U.S. Department of Transportation, ("DOT") as amended, it will not, in its operation and use of the Airport, discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap in any manner prohibited by Part 21 of the DOT regulations. Noncompliance with this clause will constitute a material breach of this License; therefore in the event of such noncompliance, Licensee hereby authorizes Licensor to take such action as the Federal Government may direct to enforce this covenant, and Licensee also authorizes the Federal Government to take appropriate action to enforce compliance, including the right to seek judicial enforcement.

(2) Licensee covenants and agrees that it will undertake an affirmative action program if required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, color, religion, national origin, ancestry, sex, sexual orientation, or physical handicap be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Licensee assures that it will require that its covered suborganizations provide assurances to the Licensee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

8. Supervening Law. Licenses

(A) Nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act or any other statute, ordinance, regulation or policy of any governmental agency having jurisdiction over the Airport and/or the activities that take place at the Airport.

(B) This License shall be subordinate to the provisions of any existing or future agreement between Licensor and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required by the provisions of the Federal Aviation Act of 1958, as amended, or any future act affecting the operation or maintenance of the Airport.

(C) In the event that the Federal Aviation Administration requires, as a condition precedent to the granting of funds for the improvement of the Airport, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this License, then Licensee agrees that such changes as may be reasonably required to enable Licensor to obtain said funds shall be permitted.

(D) Licensee shall obtain all necessary approvals and furnish at its own expense all licenses, permits and authorizations necessary for the undertaking of all activities described herein.

9. Taxes

(A) Licensee shall pay all taxes of whatever character that may be levied, assessed or charged used or owned by Licensee, or upon the privileges of Licensee granted hereunder. Licensor will assess and collect from Licensee a Use and Occupancy Tax on behalf of the School District of the City of Philadelphia. Licensee may contest, in its own name or in the name of Licensor the validity or amount of any tax or charge in lieu of tax it shall hereunder be required to pay to Licensor or to a taxing authority; provided, however, that Licensee shall pay such tax or charge under protest to the taxing authority and indemnify and hold Licensor harmless from all liability and expense arising out of, or for, such contest. Licensee shall not permit a lien or encumbrance to the Premises by reason of any failure of tax or charge payment.

(B) Licensee also agrees to file tax returns and pay any and all City and School District taxes that may be due as a result of doing business in

the City of Philadelphia.

(C) Licensee's failure to comply with Sections 19(A) or (B) above shall be a default under this License.

10. Liens

Licensee shall not permit a mechanic's lien or any other type of judgment or lien to attach to the whole or any part of the Airport or any improvements thereon and Licensee hereby agrees that if a mechanic's lien is filed upon Licensors' Premises or the improvements, Licensee shall protect and save harmless the Licensors against any loss, liability or expense whatsoever, by reason thereof and shall defend at its own expense such action or proceedings as may be necessary to remove such lien from the records within forty-five (45) days of notice from Licensors to Licensee of the existence of said lien. Notwithstanding anything to the contrary herein contained, Licensee may contest the validity of any mechanic's lien so long as the Premises and improvements are protected by Licensee's posting of a bond in the amount of the lien.

11. Indemnification, Hold Harmless, Liability

(A) Licensee shall indemnify, hold harmless and defend Licensors from and against all claims and actions, and all expenses incidental to the defense thereof, including but not limited to attorney fees and costs, based upon or arising out of the act or omission of Licensee, its employees, guests, patrons, agents, assigns, subtenants, invitees, contractors, suppliers of materials, and furnishers of services in the use or occupancy of the Premises by Licensee; provided, however, that Licensee shall not be liable for any injury, damage, or loss caused solely by the fault or negligence of Licensors, its employees, guests, patrons, agents, assigns, subtenants, invitees, contractors, suppliers of materials, and furnishers of services, and provided further that Licensors shall give to Licensee prompt and reasonable notice of any such claims and actions and Licensee shall have the right to investigate, compromise, and defend the same.

(B) Licensee shall be liable to Licensors for any damages, harm or injury to the Premises or to the facilities of Licensors at the Airport caused by the fault or negligence of Licensee, its employees, guests, patrons, agents, assigns, subtenants, invitees, contractors, suppliers of materials, and furnishers of services.

(C) The indemnification and liability to the Licensors by Licensee as set forth in 17(a) and (B) above, shall also apply to any and all environmental matters and shall also include but not be limited to Licensee's duty to pay any fines and satisfy any punitive measures imposed upon Licensors by governmental agencies, Licensee's duty to pay Licensors for any costs or liability incurred by Licensors in connection with safety measures, containment and/or clean-up of environmental matters.

12. Insurance

Licensee shall submit certificates of insurance demonstrating that all insurance coverage required by this License is in force with companies reasonably acceptable to Licensors. If Licensee neglects or refuses to obtain any of the insurance required by this License within 5 days after service of written

notice upon Licensee informing it of the default, then Licenser at its sole option may either procure same wherever available at the expense of Licensee or terminate this License. All amounts due from Licensee to Licenser under this paragraph shall be deemed additional rent, payable with and collectible as rent. Licensee further agrees to furnish Licenser with such evidence of insurance required to be carried hereunder as Licenser may, from time to time, require.

13. Default by Licensee. Remedies of Licenser

(A) The occurrence of any one or more of the following matters shall constitute a Default and breach by Licensee under this License: (1) failure by Licensee to pay, when due, any fees or any other moneys due and payable from Licensee under this License, including but not limited to the payment of taxes; (2) failure by Licensee to observe or perform any of the covenants in respect to Assignment and Subletting as set forth in Section 5; (3) Licensee becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they mature, or makes an assignment of the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for the Licensee; (4) bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding or other proceedings for relief under any bankruptcy law, or similar law for the relief of debtors, are instituted by or against the Licensee, and if instituted against the Licensee, and not dismissed within the time required by law, including any applicable extensions authorized by judicial order; (5) failure by Licensee to observe or perform any non-financial covenant, agreement, condition or provision of this License.

(B) (1) If any financial obligations remain unpaid for a period of ten (10) days after payment is due, Licenser may give Licensee notice of default. If Licensee fails to cure said default within ten (10) days after issuance of written notice thereof, Licenser shall be free to exercise all remedies set forth in this License and available in law or equity.

(2) Licenser shall give Licensee written notice of any default of the non-financial terms and conditions of this License, and Licensee shall within thirty (30) days following receipt of such notice, take all legally permissible steps to cure such default and institute all legally permissible measures to prevent further or continuing defaults. If Licensee fails to cure such default or to institute such measures and diligently enforce same, such shall give Licenser the right to exercise all remedies set forth in this License and available in law or equity.

(C) If an uncured Default occurs, Licenser, or anyone acting on Licenser's behalf, shall have all the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative, and shall not operate to exclude or deprive the Licenser of any other right or remedy allowed to it by law or equity.

(1) Licenser may seize Licensee's equipment and/or merchandise (hereinafter called "goods") and proceed by distress and sale of Licensee's goods found to levy the fees and/or other charges herein payable and all costs and officers commissions. Licensee hereby expressly waives in favor of Licenser the benefit of all laws now made, or which may hereinafter be made, regarding any limitation or exemption as to the goods upon which or the time within which distress is to be made after removal of goods, and further relieves Licenser of the obligations of providing or identifying such goods, it being the purpose and

intent of this provision that all goods of Licensee whether upon the Airport or not, shall be liable to distress for fees, other charges and expenses.

(2) Licensors may terminate this License upon five (5) days written notice following the expiration of any cure period, unless provided otherwise herein, and may sublet this License or any part or parts thereof to such person or persons as may, in Licensors's discretion seem best, and Licensee shall be liable for any loss of rent for the balance of the then current term;

(3) Acceleration - The License fees for the entire unexpired balance of the term of this License as well as all other charges, payments, costs and expenses herein agreed to be paid by Licensee or, at the option of Licensors, any part thereof, and also all costs and officers' commissions shall, in addition to any and all installments of fees already due and payable and in arrears and/or any other charge or payment herein reserved, included or agreed to be treated or collected as fees, and/or any other charge, expense, or cost herein agreed to be paid by Licensee which may be due and payable and in arrears, shall be taken to be due and payable and in arrears as if, by the terms and provisions of this License, the whole balance of unpaid fees and other charges, payments, taxes, costs and expense were on that date payable in advance.

(4) Confession of Judgment - Licensee empowers any prothonotary or attorney of any Court of Record to appear for Licensee in any and all actions which may be brought for fees and/or the charges, payments, costs and expenses agreed to be paid by Licensee, and/or to sign for Licensee an agreement for entering in any competent court an amicable action or actions for the recovery of fees or other charges or expenses, and in said suits or in said amicable action or actions to confess judgment against Licensee for all or any part of the fees for the entire unexpired balance of the term of this License and/or other charges, payments, costs and expenses agreed to be paid by Licensee, and for interest and costs together with an attorney's commission of five percent (5%). Such authority shall not be exhausted by one exercise thereof, but judgment may be confessed as aforesaid from time to time as often as any of said fees and/or other charges shall fall due or be in arrears, and such powers may be exercised as well after the expiration of the original term and/or during any extension or renewal of this License;

When this License shall be determined by condition broken either during the original term of this License or any renewal or extension thereof, and also when and as soon as the term hereby created or any extension thereof shall have expired, it shall be lawful for any attorney, as attorney for Lessee, to file an agreement for entering in any competent court an amicable action and judgment in ejectment against Licensee and all persons claiming under Licensee for which this License shall be his sufficient warrant; whereupon, if Licensors so desires, a writ of habere facias possessionem may issue forthwith, without any prior writ of proceedings whatsoever, and provided that if for any reason after such action shall have been commenced the same shall be determined and the License remains in or is to be restored to Licensee, Licensors shall have the right, upon any subsequent default of defaults or upon the termination of this License as hereinbefore set forth, to bring one or more amicable action or actions as hereinbefore set forth;

In any amicable action of ejectment and/or for payment of monies due in arrears, Licensors shall first cause to be filed in such action

an affidavit, made by it or someone acting for it, setting forth the facts necessary to authorize the entry of judgment, of which facts such affidavit shall be conclusive evidence, and if a true copy of this License (and of the truth of the copy such affidavit shall be sufficient evidence) be filed in such action, it shall not be necessary to file the original as a warrant of attorney, any rule of court, custom, or practice to the contrary notwithstanding;

Licensee expressly agrees that any judgment, order or decree entered against it in favor of Licenser by or in any court or magistrate by virtue of the powers of attorney contained in this License or otherwise shall be final, and that it will not take an appeal, certiorari, writ of error, exception or objection to the same, and releases to Licenser, and to any and all attorneys who may appear for Licensee, all errors in the said proceedings and all liability therefor.

(5) Licenser shall have the right of injunction, in the event of breach or threatened breach by Licensee of any of the terms and conditions hereof to restrain the same and the right to invoke any remedy allowed by law or in equity, whether or not other remedies, indemnities or reimbursements are herein provided.

14. Default of Licenser. Remedies of Licensee

Licensee may, at its option, terminate this License after thirty (30) days written notice to Licenser upon or after the occurrence of any of the following events:

(A) Issuance of a permanent injunction by any court of competent jurisdiction substantially restraining or preventing all the Scheduled Airlines from using all or major portions of the Airport for airport purposes and its remaining in force for one hundred twenty (120) days provided, however, that Licenser shall not have taken such steps as may be necessary to effect an appeal to appropriate appellate courts.

(B) The involuntary termination by any governmental authority, board, agency or officer having jurisdiction of Licensee's certificate of public convenience and necessity authorizing it to serve Philadelphia, Pennsylvania, resulting, in the termination of all of Licensee's rights to serve the Airport.

15. Waiver

No failure by Licenser or Licensee to insist upon the strict performance by the other of any agreement, term, condition or covenant hereof or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such agreement, term, condition, or covenant. No waiver of any breach shall affect or alter this License, but each and every agreement, term, condition and covenant hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

16. Force Majeure

Neither party shall be deemed in violation of this License if it is prevented from performing any of its obligations hereunder by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority or any other circumstances for which it is not responsible or which is

not in its control, provided, however, that this provision shall not excuse Licensee from paying any monies due hereunder during the term of the License or any extensions thereof.

17. Non-liability of Individuals

No director, officer, agent or employee of either party hereto shall be charged personally or held contractually liable by or to the other party under any term or provision of this License or of any supplement, modification or amendment to this License because of any breach thereof, or because of his or their execution or attempted execution of the same.

18. Entire Agreement

It is expressly understood and agreed by and between the parties hereto that this License sets forth all the promises, conditions and understandings between Licensor and Licensee relative to the Premises, and there are no promises, leases, conditions or understandings, either oral or written, between them other than as are herein set forth. It is further understood and agreed that, except as herein otherwise provided, no subsequent alterations, amendment, change or addition to the License shall be binding upon Licensor or Licensee unless reduced to writing and signed by them.

19. Time of the Essence

It is expressly understood and agreed that with respect to all responsibilities, covenants and conditions of Licensee herein, time is of the essence of this License.

20. Invalid Provisions

In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either Licensor or Licensee in their respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.

21. Binding Nature of License

All of the terms, covenants and conditions of this License shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

22. License Made In Pennsylvania

This License has been made in and shall be governed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

FIRST AMENDMENT TO LICENSE

#92-14038
90-14033

THIS FIRST AMENDMENT TO LICENSE, made and entered into this 7th day of April 1992, by and between the CITY OF PHILADELPHIA, a Municipal Corporation of the Commonwealth of Pennsylvania, through its Department of Commerce (hereafter called "Licensor"), and VIA-AIR, INC., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called "Licensee").

W I T N E S S E T H:

WHEREAS, Licensor and Licensee entered into a License Agreement (hereinafter called "License"), dated February 4, 1991, and effective as of June 1, 1990, whereby Licensor granted Licensee the non-exclusive privilege of conducting a Flight Training School at Northeast Philadelphia Airport (hereinafter called "Airport"); and

WHEREAS, Licensor and Licensee desire to amend the License in order to provide for an extension of the term.

NOW, THEREFORE, the parties mutually covenant and agree as follows:

1. Effective May 31, 1991, Article 2, Section(a) is hereby amended by the addition of Sub-Article (1), which shall read as follows:

(1) Commencing on June 1, 1991, this License shall continue for eighteen (18) months, however, the term shall not extend beyond November 30, 1992, unless further extended by written amendment to this License."

2. Except as is herein provided, all other provisions of the License, dated February 4, 1991, shall be and remain in full force and effect.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this FIRST AMENDMENT TO LICENSE, as of the day and year first above written.

CITY OF PHILADELPHIA

VIA-AIR, INC.

BY: *James J. Curran*
FIRST DEPUTY Director of Commerce

BY: *Nicholas Palcone*
President/Vice-President

ATTEST: *Ind. [Signature]*
Secretary/Treasurer

Approved as to Form
JUDITH HARRIS, ~~Acting~~ City Solicitor

PER: *Stephanie V. King*
Deputy City Solicitor

CORPORATE SEAL:

LICENSE AGREEMENT

AAAE LIBRARY ^{LF2}
Category: Agriculture
Crop Dusting 6c **AGENDA ITEM**
Subject: 7/9/87
License Agreement

THIS AGREEMENT, dated July 9, 1987, by and between SANTA MARIA PUBLIC AIRPORT DISTRICT, (hereinafter referred to as "District") with offices at 3217 Skyway Drive, Santa Maria, California 93455, and SINTON CROP DUSTING, a partnership, (hereinafter referred to as "Licensee"), with offices at 924 East Cypress Street, Santa Maria, California 93454.

WHEREAS:

A. Licensee is intending to commence commercial operations from Santa Maria Public Airport (the "Airport") and desires permission to use the aeronautical facilities at the Airport on a nonexclusive basis in connection with such operations.

B. Licensee is herein granted a license to use the Airport facilities hereinafter described on the terms and conditions set forth, commencing July 1, 1987.

IT IS AGREED AS FOLLOWS:

1. License. District hereby grants to Licensee permission to use at the Airport on the terms and conditions hereinafter set forth (i) one aircraft parking space assigned by the General Manager and (ii) the runway and taxiway facilities of this Airport.

2. Charges. In consideration of the license herein granted, Licensee agrees to pay to District the following amounts during the continuance of this agreement and use of the Airport by Licensee:

(a) An amount each time an aircraft used, owned or leased by Tenant lands at the Airport during the term of this agreement for the purpose of transporting persons or property to or from the Airport computed by multiplying fifty cents (\$.50) for each 1,000 pounds of the certificated maximum gross landing weight of the aircraft, whether empty or loaded. The foregoing amounts shall be paid monthly at the offices of District, without deduction, offset, prior notice or demand, on or before the 25th day of the month following the month in which incurred and each payment shall be accompanied by a statement of accounting in such detail and form as District's General Manager shall prescribe.

(b) \$65.00 per month, in advance, during the term of this agreement, commencing July 1, 1987, for use of one aircraft parking space.

3. Late Payment Charge. Licensee acknowledges that late payment by Licensee to District of charges will cause District to incur costs not contemplated by this agreement, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges. Therefore, if any installment of charges due from Licensee is not received by District on or before the date it is due (or on the next business day of the District that is not a Saturday, Sunday or holiday on which the administrative office of the District is closed for a whole day, if the date the installment of charges is due falls on a Saturday, Sunday or holiday on which the administrative office of the District is closed for a whole day), Licensee shall pay to District an additional sum of ten percent (10%) of the overdue charges as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that District will incur by reason of late payment by Licensee. Acceptance of any late charge shall not constitute a waiver of Licensee's default with respect to the rights and remedies available to District.

4. Indemnity; Insurance.

(a) Licensee does hereby agree to indemnify and save harmless District and its directors, officers, employees, agents and representatives from and against any and all liability, claims, expenses, proceedings and suits, including costs and expenses for legal services, by reason of or arising out of use of the Airport or any of its facilities by, or the acts, omissions or operations of the Licensee, its officers, employees, customers, and business guests or invitees.

(b) Prior to use of the Airport facilities and thereafter during the continuance of this agreement, Licensee shall without cost to District secure and maintain in full force and effect airport liability and comprehensive public liability and property damage insurance, including contractual liability and third party liability coverages, with limits of not less than \$500,000 for any one person injured or killed, \$1,000,000 on account of any one accident, and property damage of not less than \$500,000. District shall be named as an additional primary insured in each policy required herein without offset of any insurance policies of the District.

Licensee shall provide District with copies of certificates issued by the insurer of all insurance policies, including in each instance an endorsement providing that such insurance shall not be cancelled or coverage reduced except after 30 days' written notice to District.

5. Airport Facilities. Licensee shall have the nonexclusive use, in common with others authorized so to do, of the Airport runways, ramps, aprons, taxiways, navigation aids and public areas. Licensee's aircraft shall be parked, loaded and unloaded only in locations designated by District's General Manager. Licensee agrees to observe, obey and abide by all directives, rules and regulations for the common and joint use of Airport facilities and for maintenance and conduct of Licensee's air transportation service which are now or may hereafter be imposed by District's board of directors, Federal Aviation Administration, City of Santa Maria, or any other governmental agency having jurisdiction over the subject matter. Licensee shall make no alterations or improvements at the Airport nor shall any signs be affixed without the prior written consent of District's General Manager. The rights and privileges granted to Licensee hereunder are not assignable, and any assignment or attempted assignment is void. Licensee specifically agrees that Licensee will not engage in the transportation of any insecticide, herbicide, rodenticide or any other hazardous material to or from the Airport nor permit the storage of such material on the Airport.

6. Termination by District: Enforcement Expenses. District shall have the right to terminate this agreement and the rights granted to Licensee hereunder, at any time, upon notice thereof to Licensee, and in the event of such termination Licensee shall promptly remove its property from the Airport. Licensee agrees to pay all reasonable costs, attorneys' fees and expenses, including compensation for the reasonable value of services rendered by District's Counsel, in connection with the enforcement of the covenants, conditions and provisions of this agreement.

7. Restrictions and Reservations.

(a) The rights granted the Licensee herein are subject to the right of District to develop, maintain, improve and operate the Airport and its facilities as it sees fit, in a nondiscriminatory manner, without interference by Licensee. This agreement shall be subordinate and subject to the provisions of any existing or future agreements or undertaking between District and the United States and to the provisions, restrictions, covenants and reservations contained in the deeds conveying the Airport property to District by the City of Santa Maria and County of Santa Barbara in 1964. This agreement is subject to the rights the United States Government now or may hereafter have or acquire, affecting the control, operation, regulation and taking over of the Airport.

(b) Licensee will abide by and comply with all applicable and valid laws, rules, regulations and orders of federal, state and local governments and governmental agencies.

8. General Provisions. Time is of the essence of this agreement. The captions appearing herein are for convenience of reference only and shall not govern the construction of this agreement. If any provision of this agreement shall be held by a court of competent jurisdiction to be invalid, the remainder of this agreement shall continue in full force and effect and shall in no way be affected or invalidated thereby. This agreement contains all of the agreements and conditions made between the parties and may not be modified orally or in any other manner than by an agreement in writing signed by the parties to this agreement. No provision of this agreement shall be deemed to have been waived by District unless such waiver be in writing signed by District. This agreement is made subject to any approval of Federal Aviation Administration which may be required.

The rider attached hereto is incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this agreement.

Approved as to form SANTA MARIA PUBLIC AIRPORT DISTRICT
for District:

District Counsel

By _____
BURT E. FUGATE, President

General Manager

By _____
SUSAN MANN, Secretary

Address of Licensee
for Notices:

SINTON CROP DUSTING

924 E. Cypress St.
Santa Maria, CA 93454

By _____
MARK A. ENGLISH,
General Partner

By _____
JACK SINTON,
General Partner

RIDER

Rider to License Agreement dated July 1, 1987, (herein called "the Agreement") between Santa Maria Public Airport District (herein called "District") and Sinton Crop Dusting, a partnership, (herein called "Licensee") covering use of the aeronautical facilities and one aircraft parking space (herein called the "premises") at Santa Maria Public Airport (herein called the "Airport").

PROVISIONS REQUIRED BY FEDERAL AVIATION ADMINISTRATION

1. Licensee, for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the premises for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Licensee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

2. Licensee for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Licensee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. That in the event of breach of any of the above nondiscrimination covenants, District shall have the right to terminate this agreement and to reenter and repossess the premises and the facilities thereon, and hold the same as if the agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Licensee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED THAT LICENSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates and other similar types of price reductions to volume purchasers.

5. Noncompliance with Provision 4 above shall constitute a material breach thereof and in the event of such noncompliance District shall have the right to terminate this agreement and the rights hereby created without liability therefor or at the election of the District or the United States either or both said governments shall have the right to judicially enforce Provision 4 above.

6. Licensee agrees that it shall insert the above five provisions in any lease agreement, contract, license, permit or other instrument by which Licensee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises.

7. Licensee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity

8. District reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the Licensee, and without interference or hindrance.

9. District reserves the right, but shall not be obligated to Licensee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the Licensee in this regard.

10. The agreement shall be subordinate to the provisions and requirements of any existing or future agreement between District and the United States relative to the development, operation or maintenance of the Airport.

11. Licensee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the premises.

12. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

13. There is hereby reserved to District, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

14. Licensee, by accepting this agreement, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the premises above the mean sea level elevation of 359 feet. In the event the aforesaid covenant is breached, District reserves the right to enter upon the premises and to remove the offending tree, all of which shall be at the expense of Licensee.

15. Licensee, by accepting this agreement, agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, District reserves the right to enter upon the premises and cause the abatement of such interference at the expense of Licensee.

16. This agreement and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation and taking over of said Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

Box 36
RIO 6313

LICENSE

This License is granted by the Metropolitan Nashville Airport Authority, hereinafter referred to as "the Authority", to _____, hereinafter referred to as "Licensee". The purpose of this License is to incorporate the terms and conditions concerning Licensee's operation of _____
_____ at the Nashville International Airport ("the Airport").

OPERATIONAL AREA

1. The area to be used by Licensee for _____ operations is that depicted on Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as "Operational Area".

TERM

2. This License shall be effective upon the execution hereof and shall continue in full force and effect, unless otherwise revoked as provided for herein, _____, at which time this License shall automatically expire.

FEES AND CHARGES

3. Licensee shall pay to Authority, as compensation for the operating rights created herein, and as consideration for execution of this License by Authority, a minimum annual fee of _____ Dollars (\$_____) payable in equal monthly installments of _____ Dollars (\$_00.00), due on the first day of each month in advance and without notice.
4. Licensee shall, on or before the tenth (10th) day of each month, without demand therefor, furnish Authority a written report certifying the gross revenue derived from Licensee's sale of such items. Licensee agrees to submit additional monthly activity reports as may be requested by Authority.

5. Licensee shall at all times maintain and keep permanent books, logs, ledgers, or other records wherein are accurately kept all entries reflecting the total quantity of items sold or dispensed at the Airport. Such books, logs, ledgers, and records shall be made available at Airport for examination by Authority or its duly authorized representative(s) upon reasonable advance notice to Licensee.
6. Licensee hereby deposits with Authority a Letter of Credit in the amount of _____ Dollars (\$_____.00) as security for the full, faithful and prompt performance by Licensee and compliance with all the conditions of this License and all the covenants, terms and conditions of any provision hereinafter entered into. The said Letter of Credit shall remain on deposit with Authority throughout the term of this License. In addition to any and all other remedies available to it under any agreement or otherwise, Authority shall have the right, at its sole option and at any time, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against Licensee and for the payment of reasonable attorney's fees and other costs for the enforcement of any of its claims or demands against Licensee. There shall be no obligation of Authority to exercise such right, and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach on the part of Licensee. In the event that Authority shall at any time so apply the deposit or a part thereof, Licensee shall, on demand by Authority and within two (2) days thereafter, deposit with Authority additional cash so as to maintain the deposit at all times at the full amount stated above; all such additional deposits shall be subject to all the conditions of this License. Within thirty (30) days after the expiration of this License and upon written request therefor by Licensee, Authority will return the deposit to Licensee, less the amount of any and all unpaid claims and damages of the Authority under this License. Upon revocation of this License Authority may, at its option, retain the deposit until the expiration of this License (or until the final date of any extended term, as the case may be) and shall thereafter, upon demand by Licensee within the time and in the manner provided above, return the same to Licensee less the amount of any and all unpaid claims and damages, including but not limited to estimated damages of Authority during the term of this License or any extension or renewal hereof. Licensee agrees that it shall not assign, mortgage or encumber the deposit. Licensee hereby waives any rights to any interest which may be earned or accrued on its deposit during the term of this License or any extension or renewal hereof.
7. Without waiving any of its rights hereunder, Authority may charge Licensee a carrying charge at the maximum rate allowable by law per annum on all delinquent accounts.

OPERATING REQUIREMENTS

8. Fueling operations shall only be performed within the parameters set forth in this License for commercial air cargo aircraft owned and/or operated by tenants of Licensee. Offering or performing fueling operations for non-commercial air cargo aircraft or in conflict with the rights specifically granted in this License shall be grounds for immediate revocation of this License. Only individuals who are employees of Licensee are authorized to dispense, store, and handle aviation fuel for commercial air cargo aircraft only. The Authority reserves the right to request documentation of Licensee's payroll to validate employee status. Licensee is restricted from selling aircraft fuel to other airport users, including locally based and transient non-commercial air cargo aircraft transporting passengers, pleasure flying, or operating on an area other than that upon which the Licensee is authorized to perform fueling operations. Any violation of this restriction shall result in an automatic cancellation of this License by the Authority without recourse by the Licensee. Upon request by the Authority, Licensee shall provide evidence of nature and type of aircraft fueled. Approval of the Authority is required before commencing such fueling operations. Commercial air cargo aircraft operators with scheduled or regular services utilizing the Airport shall also have an operating agreement with the Authority prior to receiving fueling services from the Licensee.
9. Licensee shall meet and comply with all applicable federal, state, county, and local laws and regulations with regard to the storage, handling, and dispensing of aircraft fuel. All federal and state environmental laws and regulations shall be strictly adhered to, including, but not limited to, the Resource Conservation and Recovery Act and the applicable regulations and standards promulgated by the Environmental Protection Agency, the Tennessee Water Pollution Control Board, and the applicable county public health or environmental control agency. The list of environmental concerns shall include, but not be limited to, the following:
 - A. Emissions to the atmosphere
 - B. Hazardous material exposures - worker training
 - C. Hazardous materials transporting
 - D. Hazardous waste generation, storage, treatment and disposal
 - E. Occupational health and environmental controls
 - F. Release notification and emergency response

- G. Release/storage of POL
- H. Notification of releases to the environment
- I. Storm water discharges
- J. Waste water discharges to a municipal sanitary sewer
- K. Waste water discharges to surface waters
- L. Underground storage tanks
- M. Use and release of Polychlorinated Biphenyls (PCB)
- N. Waste disposal sites

- 10. As a minimum requirement for all fueling operations, Licensee shall meet applicable guidelines and any amendments thereto of the National Fire Protection Association (NFPA), the American Society of Testing Materials (ASTM), and the American Petroleum Institute (API).
- 11. As more specifically provided hereinafter, Licensee shall comply with applicable FAA guidelines contained in the following documents which are incorporated herein by reference: FAA Advisory Circular 150/5230-4, API Bulletin Nos. 1500, 1581, and 1542, National Air Transportation Association Refueling and Quality Control Procedures dated March 1982, NFPA 407, and any amendments thereto.

REFUELING EQUIPMENT

- 12. Licensee shall utilize mobile self-propelled fueling trucks and shall provide a single truck for each type fuel to be dispensed. Each truck shall have a minimum capacity of 600 gallons for Avgas and 1,000 gallons for jet fuel. In no instance shall any mobile self-propelled dispensing truck exceed 2,500 gallons capacity or 18,000 pounds per axle, whichever is greater. Separate filter dispensing pump, meter, bottom tank loading and grounding services are required for each type of fuel. Trucks shall be properly maintained, operated, and equipped in accordance with applicable procedures and guidelines contained in FAA Advisory Circular 150/5230-4, Aircraft Fuel Storage, Handling, and Disposing on Airports, American Petroleum Institute Bulletin Nos. 1500, 1581, and 1542, NATA Refueling and Quality Control Procedures, National Fire Protection Association Publications, and local city and state codes, regulations, and ordinances. Aircraft refueler units shall only be operated by persons instructed in their proper use and operation and who are qualified to use such refueler units in accordance with applicable safety requirements. All qualified Licensees shall carry on their person an identification card issued by their employer certifying their qualifications.

13. Licensee shall not allow use of defective equipment and will operate the equipment as designed in a safe, efficient, and clean manner. Defective or non-mobile equipment must be removed from airport property within 15 days of Licensee's being so notified by the Authority.
14. Licensee's fuel trucks, when not engaged in refueling, must be parked within an area designated by the Authority.
15. Fuel trucks and starting systems shall have locking capability and shall be locked at all times when not in use.
16. Prior to the first use of a mobile self-propelled dispensing truck on the Airport, Licensee shall present such truck for inspection and approval by the Authority. The Authority's approval is mandatory prior to the mobile self-propelled dispensing truck's use or operation. Such approval shall be by the Authority's designated representative. Periodically, Licensee shall allow mechanical and dispensing system inspection of said trucks by the Authority and shall cease operation of the trucks until any malfunction or discrepancy so noted is corrected to the satisfaction of the Authority. Operation of mobile dispensing trucks with known mechanical or operational deficiencies shall constitute a violation and may result in suspension or revocation of this License.

AIRCRAFT FUELING/DEFUELING REQUIREMENTS

17. All fueling/defueling equipment utilized by Licensee and the operation thereof by employees of Licensee shall be in compliance with the guidelines specified in the foregoing paragraphs.
18. Aircraft fueling/defueling equipment shall be operated only by a person holding a valid Tennessee driver's License who has had instruction in the safe and proper use of such equipment on the Airport.
19. Licensee shall be required to have written documentation that each employee that operates aircraft fueling/defueling equipment has been properly trained and is fully qualified to operate such equipment.

20. Licensee shall appoint a "designated representative" who shall be responsible for the documentation of the training and qualifications of employees. Such documentation shall be retained by Licensee and shall be made available for inspection and review at the request of the Authority.
21. Aircraft fueling/defueling equipment shall be maintained in good repair at all times.
22. Licensee shall establish and maintain standards acceptable to the Authority for protection against fire and explosions in storage, dispensing, and otherwise handling POL and oxygen. These standards shall cover facilities, procedures, and personnel training and shall address, at a minimum, the following: (1) bonding, (2) public protection, (3) control of access to storage areas, (4) fire safety, and (5) training. The training shall include, but not be limited to, at least one supervisor with each fueling agent who has completed an Aviation Fuel Training Course in fire safety which is acceptable to the Authority. All other employees who fuel aircraft, receive POL, or otherwise handle fuel shall receive at a minimum on-the-job training in fire safety that is acceptable to the Authority. The Authority shall obtain certification once a year from Licensee stating that the required training has been accomplished.
23. Licensee shall inspect aircraft fueling/defueling equipment before, during, and after each fueling/defueling of an aircraft. Inspection shall include a check for leaks in tanks, hoses, and connections and a visual inspection of bonding hooks and wires for kinks or fraying. Unsafe equipment shall be placed out of service immediately.
24. Aircraft fueling/defueling vehicles shall be provided with a minimum of two (2) U.S. listed, 20-BC rated fire extinguishers. Fire extinguishers shall be mounted in an accessible location at all times and shall be inspected and serviced annually by a service representative Licensed by the office of the State Fire Marshall.
25. Aircraft fueling/defueling equipment shall be stabilized with an emergency brake and chock blocks during fueling/defueling operations.
26. Aircraft fueling/defueling equipment Licensees shall remain with such equipment while connected to the aircraft.

27. Aircraft fueling/defueling equipment shall be properly bonded to the aircraft.
28. Self-closing nozzles and/or "dead man" controls shall be held open by hand during the entire fueling/defueling operation. Holding or blocking open of controls by any other means is prohibited.
29. Tandem fueling, which is the practice of passing fuel simultaneously from one vehicle to another and then into an aircraft, is prohibited.
30. Pouring or gravity dispensing of fuel into or out of an aircraft is prohibited.
31. Automatic and other spark-producing equipment, other than fueling/defueling equipment servicing an aircraft, shall not be permitted within fifty (50) feet of any fueling/defueling operation in progress.
32. No fueling/defueling operation shall be carried out within three hundred (300) feet of radar transmitting equipment.
33. Over-wing fueling/defueling operations are prohibited during electrical storms.
34. Smoking is prohibited on aircraft ramp parking areas.
35. No aircraft fueling/defueling vehicle or equipment shall be parked, stored, repaired, or operated within fifty (50) feet of any building without prior approval of the Authority.
36. Aircraft engines shall not be operated during fueling/defueling operations.
37. There shall be no occupants in the aircraft during fueling/defueling operations.
38. Transfer of fuels from vendors to on-airport facilities shall only take place in an area determined to be environmentally safe by the Authority.

AIRCRAFT FUEL AND FUEL SPILLS

- 39. Licensee shall provide trained and qualified personnel to receive, store, and dispense POL.
- 40. Licensee shall provide for the lawful handling and disposal, away from the Airport, of all trash, containment fuel waste, and other materials, including, but not limited to, used oil, solvents, and other waste.
- 41. Licensee shall prepare, for approval by the Authority, a Fuel Spill Prevention Control and Countermeasure Plan that provides adequate procedures to limit and control fuel spills, including notification and clean up procedures. Fuel service personnel shall be trained in the use of appropriate fire extinguishing equipment.
- 42. In the event of a fuel spill:
 - A. Aircraft fueling/defueling operations shall cease immediately.
 - B. The Airport Police shall be notified immediately.

FUEL

- 43. Licensee shall not fuel aircraft with fuel other than those approved by the aircraft engine manufacturer and FAA type certificate for the type of operations involved. Licensee shall furnish a letter of Product Commitment and Allocation of Product for the fuels to be dispensed from a supplier acceptable to Authority.
- 44. Licensee shall in writing identify to the Authority its POL vendor. Licensee shall be responsible for maintaining the quality of the fuel products by strictly adhering to the quality maintenance standards provided by the fuel product vendor. This standard typically includes, but is not limited to, the following topics:
 - A. Fuel types
 - B. Fuel contaminants
 - C. Testing for contaminants
 - D. Fuel handling equipment
 - E. Storage operation
 - F. Fueling operation
 - G. Record systems
 - H. Change of grade

I. Sampling procedure

45. The POL vendor shall have the right at any time to inspect or conduct field tests of the quality of the POL in the custody of Licensee and to inspect the facilities utilized for storage and dispensing of vendor product and review Licensee's quality control and fueling procedures. Upon notification from the fuel vendor of non-compliance with the vendor's quality maintenance standards by Licensee, the Authority reserves the right to revoke this Air Cargo Aircraft Fueling License.

FUELING AREAS AND ROUTES OF TRAVEL

46. Aircraft fueling will be conducted only in specific areas designated by the Authority. Access to the designated area by the Licensee's fuel supplier shall be via routes approved by the Authority. A route traversing the aircraft movement area is strictly prohibited.

INDEMNIFICATION

47. Licensee shall protect, defend, indemnify and hold the Authority and its Board of Commissioners, officers, and employees completely harmless from and against any and all liabilities, demands, suits, claims, losses, fines or judgments arising by reason of the injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this License or Licensee's use of Operational Area or the acts or omissions of Licensee's officers, employees, agents, or invitees, unless such injury, death or damage is caused by the sole negligence of the Authority. The Authority shall give Licensee reasonable notice of any such claims or actions. Licensee, in carrying out its obligations hereunder, shall use counsel reasonably acceptable to the Authority. The provisions of this section shall survive the expiration or earlier revocation of this License.

INSURANCE

48. Licensee agrees to maintain Comprehensive General Liability in an amount of not less than Five Million Dollars (\$5,000,000) combined single limit during the term of this License and any renewals thereof. Such insurance policies shall name Authority, its Board of Commissioners, its officers, and its employees as additional insured to the full extent of Licensee's insurance coverage but in no event less than the required minimum coverage limit amount.

- 48A. Licensee agrees to maintain Pollution Liability Insurance in an amount of \$_____ as recommended by the Authority's insurer.
49. Licensee shall also obtain and maintain continuously in effect at all times during the term hereof, at its sole expense, Comprehensive Automobile Liability and Property Damage insurance protecting the Authority, and its Board of Commissioners, against liability which may occur from or by the operating of automobiles by Licensee, or by Licensee employees, agents or representatives, hereunder. Subject insurance shall be in the amount of at least \$500,000 for personal injury or death of any one person in any one accident; the total sum of at least \$1,000,000 for personal injury or death for all persons in any one accident; and the sum of at least \$500,000 covering property damage per occurrence. Such policy shall name the Authority and its Board of Commissioners as additional insured.
50. Licensee agrees to maintain contractual liability insurance to insure Licensee's obligation to indemnify and hold Authority, its Board of Commissioners, its officers, and its employees harmless in accordance with the indemnification provisions of this License.
51. Licensee agrees that all insurance policies shall contain a severability of interest or cross-liability provision endorsement which shall read generally as follows:
- "In the event of one of the assureds incurring liability to any other of the assureds, this policy shall cover the assured against whom claim is or may be made in the same manner as if separate policies had been issued to each assured. Nothing contained herein shall operate to increase the limits of liability."
52. Licensee agrees that all insurance policies shall provide that they will not be altered or cancelled without thirty (30) days advance written notice to the Authority. Such insurance must provide that it will be considered primary insurance as respects any other valid and collectible insurance, or self-insured retention, or deductible Authority may possess. Any other insurance or self-insured retention of the Authority shall be considered excess insurance only.
53. The Authority shall have the right to change the insurance coverage and the insurance limits required of Licensee, without any cost to the Authority, if such changes are

recommended or imposed by the Authority's insurers. Licensee shall obtain all insurance required from an insurance company or companies Licensed to do business in the State of Tennessee. The insurance company must be acceptable to the Authority. Approval may be denied a company based on its Best rating or other indication of financial inadequacy. Licensee shall provide to the Authority such evidence of compliance with the Authority's insurance requirements as the Authority may request. At a minimum, Licensee shall provide, at the commencement of this License, a Certificate of Insurance. All such certificates shall be completed to show compliance with Licensee's obligations hereunder, specifically as to the indemnification and notice provisions, and a copy of the Certificate of Insurance shall be provided to Authority prior to execution of this License. The Authority may also require copies of the declaration page, insurance policy, and endorsements thereto.

54. If Licensee shall at any time fail to insure or keep insured as aforesaid, the Authority may do all things necessary to effect or maintain such insurance and all monies expended by it for that purpose shall be paid by Licensee to the Authority not later than ten (10) days after the premium or premiums are paid by the Authority. If any insurance policies required hereunder cannot be obtained for any reason, the Authority may require Licensee to cease any and all operations until coverage is obtained. If such insurance coverage is not obtained within a

reasonable period of time, to be determined solely by the Authority, then the Authority may terminate this License.

COMPLIANCE WITH LAWS

55. Licensee agrees to conduct its affairs and business on Operational Area in conformity with all applicable federal, state, and local laws and regulations as well as in conformity with rules and regulations promulgated by the Authority. Licensee will confine its operations to any restrictions required by the Federal Aviation Administration for conducting such an operation.

ASSIGNMENT

56. Neither Licensee nor any assignee or other successor of Licensee, shall in any manner, directly or indirectly, by operation of law or otherwise, assign, transfer or encumber this License or any interest contained herein, nor Licensee nor permit the use of the rights herein granted, in whole or in part, without the prior written approval of Authority, which

approval may be denied for any reason.

ENVIRONMENTAL COMPLIANCE

57. Licensee agrees to comply with all laws and to obey all rules, regulations, or administrative orders of agencies of the City of Nashville and Davidson County, the State of Tennessee, and the United States as these laws, rules, regulations and administrative orders may exist and as they may be hereinafter adopted relating to the protection of the environment. Licensee further agrees to abide by all rules and regulations adopted by the Authority relating to protection of the environment.
58. Licensee shall not cause or permit any "Hazardous Substance" as defined in Paragraph 61 of this License to be used, stored or generated on the property or area upon which Licensee is authorized to perform fueling services (the "Operational Area"), except for Hazardous Substances of types and quantities customarily used or found in Licensee's business so long as said Hazardous Substances are used, stored and/or generated in full compliance with all laws. Licensee shall not cause or permit the release [as "Release" is defined in 42 U.S.C. Section 9601(22) (as amended)] of any Hazardous Substance, contaminant, pollutant, or petroleum product in, on or under the Operational Area or into any ditch, conduit, stream, storm sewer, or sanitary sewer connected thereto or located thereon. Licensee shall fully and timely comply with all applicable federal, state, and local statutes and regulations relating to protection of the environment, including, without limitation, 42 U.S.C. Sections 6991-6991i.
59. Compliance Upon Revocation - Upon the revocation of this License or vacation of the Operational Area, Licensee shall, at Licensee's sole expense, remove or permanently clean all Hazardous Substances that Licensee, or anyone for whom Licensee is responsible, including, but not limited to, a customer, invitee, employee, agent, or person having a contractual relationship with the Licensee, caused to be situated on, at, in or under the Operational Area. This shall be done in compliance with all applicable federal, state and local laws, regulations and ordinances and shall include the performance of any necessary cleanup or remedial action. Licensee shall provide Authority with copies of all records related to any Hazardous Substances that are required to be maintained by any applicable federal, state, or local laws or regulations.

Licensee shall, at Licensee's sole expense, clean up, remove and remediate (1) any Hazardous Substances in, on, or under the Operational Area in excess of allowable levels

established by all applicable federal, state and local laws and regulations and (2) all contaminants and pollutants, in, on, or under the Operational Area that create or threaten to create a substantial threat to human health or the environment and that are required to be removed, cleaned up, or remediated by any applicable federal, state, or local law, regulation, standard or order. This obligation does not apply to a Release of Hazardous Substances, pollutants, contaminants or petroleum products that existed on the Operational Area prior to the execution of the License or caused solely by the act or omission of Authority or a third party for whom the Licensee is not responsible, e.g., not a customer, invitee, employee, agent, or person having a contractual relationship with the Licensee.

60. Indemnity for Non-Compliance - Licensee shall defend, indemnify and hold harmless Authority and its consultants, agents, officers, directors and employees from and against all claims, damages, losses and expenses, whether direct, indirect or consequential, including but not limited to attorneys fees, arising out of or resulting from the Licensee's use of the Operational Area or acts or omissions of others on the Operational Area for whom Licensee is responsible. Without limiting the generality of the foregoing, the above indemnification provision extends to liabilities, damages, suits, penalties, judgments, and environmental cleanup, removal, response, assessment, or remediation costs, arising from actual, threatened or alleged contamination of the Operational Area or actual, threatened or alleged release of any Hazardous Substances, pollutant, contaminant or petroleum in, on or under the Operational Area, provided that said actual, threatened or alleged contamination or release occurs after execution of the License and is not caused by contamination that existed at the Operational Area prior to execution of the License. Licensee's obligations under this paragraph shall survive revocation or expiration of the License.
61. Definition of Hazardous Substances - As used herein, the term "Hazardous Substances" means and includes any and all substances, chemicals, wastes, sewage or other materials which are now or hereafter regulated, controlled or prohibited by any local, state or federal law or regulation requiring removal, warning or restrictions on the use, generation, disposal or transportation thereof including, without limitation, (a) any substance defined as a "hazardous substance", "hazardous material", "hazardous waste", "toxic substance", or "air pollutant" in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901, et seq., the Federal Water Pollution Control Act

(FWPCA), 33 U.S.C. Section 1251, et seq., or the Clean Air Act (CAA), 42 U.S.C. Section 7401, et seq., all as amended and amended hereafter; (b) any substance defined as a "hazardous substance", "hazardous waste", "toxic substance", "extremely hazardous waste", "RCRA hazardous waste", "waste" or "hazardous material" in Sections 25115, 25117, 25122.7, 25120.2, 25124, 25281, 25316, 25501 of the California Health and Safety Code, or listed pursuant to Section 25140 of the California Health and Safety Code; (c) any hazardous substance, hazardous waste, toxic substance, toxic waste, hazardous material, waste, chemical, or compound described in any other federal, state, or local statute, ordinance, code, rule, regulation, order, decree or other law now or at any time hereafter in effect regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous substance, chemical, material, compound or waste. As used herein, the term "Hazardous Substances" also means and includes, without limitation, asbestos; flammable, explosive or radioactive materials; gasoline; oil; motor oil; waste oil; petroleum (including without limitation, crude oil or any fraction thereof); petroleum-based products; paints and solvents; lead; cyanide; DDT; printing inks; acids; pesticides; ammonium compounds; polychlorinated biphenyls; and other regulated chemical products.

62. Authority's Representation - To the best of the Authority's current actual knowledge and belief; as of the date of execution hereof, Authority is not aware of any disposal of any Hazardous Substances in the Operational Area prior to the date of execution. Authority has provided Licensee with an opportunity to inspect the Operational Area prior to the execution hereof and date of possession.

REVOCATION

63. If Licensee violates any of the terms of this License, the Authority may revoke, without prior notice, the rights granted to Licensee herein, and Licensee shall immediately close all fueling operations without any right, recourse or action against the Authority.

IN WITNESS WHEREOF, Authority and Licensee have executed this License this __
day of _____, 1996.

ATTEST:

Secretary

APPROVED AS TO FORM & LEGALITY:

Legal Counsel

Stokes & Bartholomew, P.A.
Third National Financial Center
Nashville, Tennessee 37219

AUTHORITY:

METROPOLITAN NASHVILLE
AIRPORT AUTHORITY:

BY: _____
William G. Moore, Jr.
President

RECOMMENDED BY:

Glenda C. McClellan
Director of Properties

LICENSEE: _____

BY: _____

TITLE: _____

DATE: _____

AMC/FI

DEPARTMENT OF THE AIR FORCE

REVOCABLE LICENSE

FOR THE USE OF PERSONAL PROPERTY

THIS AGREEMENT made and entered into June 1, 1988, by and between the United States of America, represented by USPFO for Oregon (hereinafter called "Government") and City of Klamath Falls, Oregon, a municipal corporation organized and existing under the laws of the State of Oregon in 1905, having a principal place of business at 500 Klamath Avenue, Klamath Falls, Oregon, (hereinafter called "Licensee").

WITNESSETH:

NOW, THEREFORE, it is hereby agreed:

1. Subject to the terms and conditions of this Agreement, the Government hereby grants a license to the Licensee for a term of fifty-seven (57) months, beginning January 1, 1988, and ending September 30, 1992, but revocable at will by the Secretary of the Air Force, for the use of the following described personal property for purposes only of:

Fire Fighting

Roads and Grounds Maintenance

(SEE Equipment List attached to this agreement.)

2. The Licensee shall pay to the Government a nominal fee in the amount of One Dollar and no cents (\$1.00) for the entire term of the license, the receipt of which is hereby acknowledged, and provide other good and valuable consideration as hereinafter provided herein.

3. Government will maintain and replace licensed property to ensure a safe working condition. Maintenance and replacement shall be at the sole discretion of the Government.

4. Loan of the licensed Property to the City of Klamath Falls is for the following intended purposes:

- a. Fire Protection, Crash Rescue Response and support for off-base military activities.
- b. Maintenance of Joint-Use Runways and Taxiways.
- c. Maintenance of Government Exclusive Use Aircraft Parking Ramps, Roads and Grounds.

5. Licensee is permitted to use Government Fire Fighting Equipment outside the boundaries of Kingsley Field to the extent permitted by approved Mutual Aid Agreements. Any such Mutual Aid Agreements must first be approved by the USPFO for Oregon. The 114TFTS twenty-four (24) hour command post will be notified immediately in the event of an off-base response. Licensed property will not be removed from the established permissible operating distance (POD) of Kingsley Field for other than Mutual Aid Agreement response, military aircraft accidents outside the POD, support of off-base military activities outside the POD and such other activities as may be approved in advance by the Commander.

6. The Licensee shall obtain no interest in the licensed property by reason of this Agreement, and it is understood and acknowledged that title shall remain in the Government at all times.

7. The Licensee agrees to use the licensed property in a careful and prudent manner and will at all times protect and maintain the property in good order and condition. The Licensee further will at all times exercise due diligence in the protection of the licensed property against damage or destruction by fire and other causes. Any licensed property that is negligently damaged or destroyed by Licensee will be repaired or replaced to the reasonable satisfaction of the Government. Government shall make its vehicle maintenance shop services available to Licensee for such repairs at Government's rate.

8. The Licensee will not modify or alter the licensed property in any way without the prior written consent of the Government, which consent shall not be unreasonably withheld.

9. The licensed property will be returned in good condition (fair wear and tear excepted) as when licensed, and any reasonable expense involved in placing the licensed property in such good condition will be borne by the Licensee.

10. The Licensee agrees to keep the Government informed at all times on the condition and location of the licensed property.

11. The Licensee shall neither use the licensed property as security for any loan, nor sell, lease, rent, license or exchange the property for monetary gain or otherwise under any circumstances whatsoever without the prior written consent of the Government.

12. The Licensee agrees to assume all risk of loss or damage to property and injury or death to persons by reason of or incident to the possession and/or use of the licensed property, and expressly waives all claims against the Government for any such loss, damage, personal injury or death caused by or as a consequence of such possession and/or use. The Licensee further agrees to indemnify, save harmless, and defend the Government from and against all claims, demands, actions, liabilities, judgments, costs and attorney's fees, arising out of, claimed on account of, or in any manner predicated upon personal injury, death or property damage caused by or resulting from possession and/or use of the licensed property up to the amounts referenced in paragraph 13.

13. The Licensee shall maintain in effect, during the entire term of this Agreement, and any renewal thereof, a policy of comprehensive liability and indemnity insurance satisfactory to the Government in the amounts set forth in ORS 30.270 to

protect the Government against the loss, damage or destruction of the licensed property, by theft, fire and/or other causes, and against any losses and/or liability caused by or resulting from the possession and/or use of the licensed property by the Licensee. The Government shall be a named insured under the policy or policies, and the insurer shall have no right of subrogation against the Government.

14. The Licensee agrees to allow authorized Government representatives access to the Licensee's pertinent records, and premises and facilities for the purpose of assuring compliance by Licensee with the terms and conditions of this Agreement.

15. The Licensee agrees to return the licensed property to the Government at the location at which Licensee received the licensed property on the expiration of, or earlier termination or revocation of this Agreement at no cost or expense to the Government. The Licensee agrees to pay any expenses incurred in returning the licensed property to the Government.

16. This Agreement shall be neither assignable nor transferable by the Licensee without the prior written consent of the Government.

17. The Licensee will comply with the provision of this loan agreement, and all other federal, state and local laws, rules and regulations applicable to this transaction.

18. Subject to the provisions of paragraphs 8 and 14 hereof, this Agreement may be terminated by the Licensee at any time by giving the Government at least thirty (30) days' notice in writing.

19. The Licensee agrees that no person will be discriminated against in connection with the use made of the licensed property on the ground of race, color, religion, sex or national origin, nor will any person be denied the benefits of or

be subject to discrimination under any program or activity held, conducted or sponsored by the Licensee in that any activity, program or use made of the property by the Licensee will be in compliance with the provisions of Title VI of the Civil Rights Act of 1964.

20. No notice, order, direction, determination, requirement, consent or approval under this Agreement shall be of any effect unless it is in writing. Written communications to the Licensee shall be addressed:

City Manager
500 Klamath Avenue
Klamath Falls, OR 97601

Written communications to the Government shall be addressed:

114 TSTS/CC
Kingsley Field
Klamath Falls, OR 97603-0400

21. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom, but this provision shall not be constructed to extend to this Agreement if made with a corporation for its general benefit.

22. The Licensee warrants that it has not employed any person to solicit or secure this license of personal property upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to annul this Agreement or in its discretion to recover from the Licensee the amount of such commission, percentage, brokerage or contingent fee in addition to any consideration herein set forth.

23. (a) The Government by giving written notice to the Licensee may terminate the rights of the Licensee to proceed under this Agreement if it is found, after notice and hearing by the Secretary of the Air Force or his/her duly authorized

representative, that gratuities in the form of entertainment, gifts or representative of the Licensee, to any officer or employee of the Government with a view toward securing this Agreement or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such agreement, provided that the existence of the facts upon which the Secretary of the Air Force or his/her duly authorized representative makes such findings shall be an issue and may be reviewed in any competent court.

(b) In the event this Agreement is terminated as provided in subparagraph (a) above, the Government shall be entitled to pursue the same remedies against the Licensee as it could pursue in the event of a breach of the Agreement by the Licensee and in addition to any other damages to which it may be entitled by law, the Government shall be entitled to exemplary damages in an amount (as determined by the Secretary of the Air Force and his/her duly authorized representative) which shall be not less than three (3) nor more than ten (10) times the cost incurred by the Licensee in providing any such gratuities to any such officer or employee.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement on the date set opposite their respective signatures.

CITY OF KLAMATH FALLS

By: George C. Fitterhoff Date: 9/21/88
Mayor

Attest: Lisa S. Fritz
City Recorder

APPROVED AS TO LEGAL FORM


City Attorney

STATE OF OREGON

By: _____ Date: _____
Adjutant General

UNITED STATES OF AMERICA

By: _____ Date: _____
CHIEF, NATIONAL GUARD BUREAU

VEHICLES ASSIGNED TO THE FIRE DEPARTMENT

REGISTRATION NUMBER

NOMENCLATURE

66D00772	1500 Gallon Tanker with Pump
68L00625	"M" Series Fire Truck (530B)
74L00363	P-4 Crash Truck
74L00364	P-4 Crash Truck
74L00429	P-12 Structural Fire Truck (Pumper)
75L00328	P-13 Crash Fire Truck (Jeep 4X4)
85B03343	Command and Control Vehicle (Dodge Van)
85L01348	P-10 Fire Rescue Truck (Chevrolet)
87L00102	P-19 Crash Truck
85B07160	Abulance Modular 4X2

VEHICLES ASSIGNED TO ROADS AND GROUNDS

REGISTRATION NUMBER

NOMENCLATURE

65D00234	Wheeled Loader 1.5 Cu Yd Bucket
67D01785	54,000 GVW Roll-Over Snowplow
69D01250	3-Wheeled Street Sweeper (Self-Propelled)
71D00081	IHC Vacuum Truck
71D00081	54,000 GVW Roll-Over Snowplow
71D00445	Sicard Snowbrush (Towed)
71D00729	Sicard Snowbrush (Towed)
72D00451	IHC Vacuum Truck (Depot Rebuild)
72D00506	Truck-Mounted Crane
74D00339	Snowblower, Truck-Mounted, 34,000 GVW
75D00271	Snowblower, Truck-Mounted, 34,000 GVW
77C00113	4X4 IHC Dump Truck
77K00150	M885 4X4 Pickup Truck
80D00176	34,000 GVW Roll-Over Snowplow
83B01707	Ford 4X4 Crew Cab Pickup Truck
83D00088	Tractor, Farm-Type, with Bucket
84D01138	Sweeper, Rotary, Gas, Towed
84D01348	Tractor, Farm-Type, with Cab
84D01348	Tractor, Farm-Type, with Cab
86C01104	IHC Dump Truck
87D00380	Champion Road Grader
87D01109	Sweeper, Magnetic, Towed
88D00901	54,000 GVW Roll-Over Snowplow

LICENSE AGREEMENT

1332

Box 110

BYRON AIRPORT

Aerosports Aviation
P.O. Box 88
Byron, CA 94514

This License Agreement by and between Contra Costa County hereinafter called ("Airport") and Aerosports Aviation, a California partnership hereinafter called ("Licensee") shall be effective 8-15-92 1992. Airport is the owner of the real property known and designated as Byron Airport located in Contra Costa County, California. Licensee desires to obtain access to the Airport to provide aircraft fueling at the Airport. Now, therefore, the parties agree as follows:

1. **GRANT OF LICENSE:** Subject to the terms and conditions of this Agreement, Airport hereby grants to Licensee a nonexclusive, revocable license to enter onto the property shown in Exhibit "A", attached hereto, for the purpose of providing and operating aircraft fueling services from Airport's fueling facility. This license may be terminated at any time by Licensee or Airport upon thirty (30) days written notice. Notwithstanding any provision herein contained to the contrary, if at any time the Licensee shall fail or refuse to comply with or carry out any of the covenants herein contained, Airport may at its election forthwith revoke this License.
2. **TERM:** The term of this Agreement shall be from month to month, commencing on 8-15-92 and continuing until termination.
3. **CONSIDERATION:** As consideration for this Agreement, Licensee hereby agrees to provide and operate aircraft fueling services during the months of June through September, Tuesday through Saturday, from 8:00 am to 7:00 pm. The hours of operation during the months of October through May shall be agreed upon between the Licensee and the Manager of Airports.
4. **SALE OF FUEL TO LICENSEE:** Airport hereby agrees to sell aviation fuel to Licensee at a rate of ten cents (\$.10) over the cost per gallon of said fuel to the Airport, on the condition that said fuel is used solely in Licensee's skydiving aircraft. For example, if Airport purchases aviation fuel for \$1.00 per gallon, then Licensee may buy said fuel from Airport solely for use in Licensee's skydiving

aircraft, at a price of \$1.10 per gallon.

For fuel pumped exclusively by Licensee, as provided in Section 3. hereinabove, into aircraft other than Licensee's skydiving aircraft, Licensee will receive a credit equal to the difference between Airport's cost per gallon for aviation fuel plus twenty cents (\$.20), and the retail cost per gallon of said fuel. For example, if the Airport's cost per gallon for fuel is \$1.00, and the retail price of said fuel is \$1.50 per gallon, then Licensee shall receive a credit of thirty cents (\$.30) (i.e. $\$1.50 - \$1.20 = \$.30$) for each gallon pumped by Licensee. Said credit shall not apply to that fuel not pumped by Licensee, or to fuel for use in aircraft other than Licensee's skydiving aircraft, and may only be applied to Licensee's purchase of aviation fuel from Airport.

5. **NON-DISCRIMINATION COVENANTS:**

- A. Licensee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Licensee assures it will require that its covered suborganizations provide assurances to Licensee that they similarly will undertake an affirmative action program and that they will require assurances from their suborganizations, as required by 14CFR Part 152, Subpart E, to the same effect.
- B. In the event of breach of any of the above non-discrimination covenants, Airport shall have the right to terminate this Agreement as if said Agreement had never been made or issued.

- C. Licensee agrees to furnish service on a fair, equal, and non-discriminatory basis to all users thereof, and to charge fair, reasonable, and non-discriminatory prices for each unit of sales or service, provided, that Licensee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Furthermore, Licensee shall neither discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, national origin, sex or age in any manner, including, but not limited to, discrimination prohibited by applicable Federal Aviation Regulations.
- D. Non-compliance with paragraph (3) above shall constitute a material breach thereof and a default of this Agreement by Licensee and, in the event of such non-compliance, Airport shall have the right to terminate this Agreement and estate hereby created without liability therefore or at the election of the Airport or the United States either or both said Governments shall have the right to judicially enforce the provisions of paragraphs (2) and (3) of this section.

6. **GENERAL PROVISIONS:**

- A. Airport reserves the right to further develop or improve the Airport as it sees fit, regardless of the desire or view of Licensee and without interference or hindrance.
- B. Airport reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Licensee from erecting or permitting to be erected any building or other structure on the Airport which, in the sole opinion of the Airport would affect the usefulness of the Airport or constitute a hazard to aircraft.

Airport, in exercising the rights stated in this subparagraph B, shall not be held liable to Licensee for the expense or damage to Licensee occurring from Airport's removal of said aerial obstructions.

- C. Neither the failure of Airport to strictly enforce all of the terms of this Agreement nor the acceptance of payment by Airport after any breach by Licensee nor any delay on the part of Airport to strictly enforce the provisions hereof, shall operate or be deemed a waiver of any rights or remedies accruing by law or by this Agreement to Airport by reason of any subsequent breach.
 - D. In the event that any provisions herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provisions does not materially prejudice either Airport or Licensee in its respective rights and obligations contained in the valid provisions of this Agreement.
 - E. It is understood, that Licensee's rights provided for under this Agreement are non-exclusive. Airport retains the right to enter into other agreements which might authorize similar use of the Airport and Airport facilities, and such authorization shall be at the sole discretion of Airport.
 - F. Time is of the essence for each provision in this Agreement.
7. **HOLD HARMLESS:** Licensee shall indemnify, save, protect and hold harmless the Airport, its officers, agents and employees from any and all claims, costs and liability including reasonable attorney's fees, for any damage, injury or death including without limitation all consequential damages from any cause whatsoever to persons or property arising directly or indirectly from or connected with this License Agreement or Licensee's use or possession of the premises, save and accept claims or litigation arising out of aircraft fueling operations or the sole or willful misconduct of the Airport, its officers and employees.

Licensee agrees to comply with all Airport and Federal Aviation Administration (F.A.A.) rules and regulations regarding fueling operations as deemed appropriate by the Airport.

7. **ASSIGNMENT AND SUBLETTING:** Licensee shall not assign or sublet Licensee's right under this Agreement.
8. **ALTERATION OF TERMS AND CONDITIONS:** The Airport reserves the right to alter, amend, and/or change the terms and conditions of this Agreement upon thirty (30) days prior written notice to Licensee.
9. **NOTICES:** Any and all notices, requests, consents, approvals or communication that either party desires or is required to give to the other party under this Agreement or otherwise, shall be in writing and either served personally or sent by prepaid first-class mail and shall be effective from the date of the mailing of the same. For the purposes thereof, unless otherwise provided in writing by the parties hereto, the address of the Airport and the proper party to receive any such notices, requests, consents, approvals or communication on its behalf is:

Contra Costa County
c/o Manager of Airports
Buchanan Field Airport
510 Sally Ride Drive
Concord, CA 94520

and the address of Licensee is:

Aerosports Aviation
P.O. Box 88
Byron, CA 94514

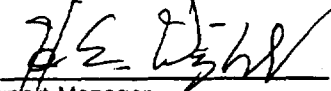
10. **TERMINATION FOR CAUSE:** Airport may terminate this Agreement at any time in the event of a violation on Licensee's part of the terms and conditions herein, by giving written notice to Licensee.

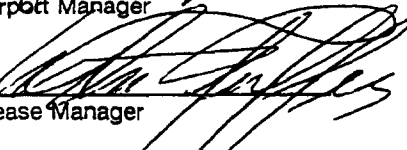
11. **ENTIRE AGREEMENT:** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. No alterations or variations of this Agreement shall be valid or binding unless made in writing and signed by both parties hereto.

CONTRA COSTA COUNTY

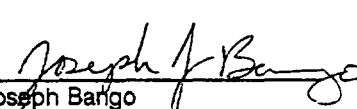
By 
Director of Public Works

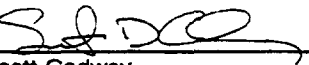
RECOMMENDED FOR APPROVAL

By 
Airport Manager

By 
Lease Manager

LICENSEE: Aerosport Aviation

By 
Joseph Barigo

By 
Scott Gadway

aerosp.lic
(7/92)

86-14012

THIS LICENSE is granted this 6th day of January, 1985 by the CITY OF PHILADELPHIA, a municipal corporation of the Commonwealth of Pennsylvania, through its Department of Commerce (hereinafter called Licensor), to NORTHEAST AVIATION CO., INC., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called Licensee);

W I T N E S S E T H:

WHEREAS, Licensor is the owner and operator of NORTHEAST PHILADELPHIA AIRPORT, Philadelphia, Pennsylvania, (hereinafter called Airport); and

WHEREAS, Licensee is in the business of operating a Flight Training School and wishes to be granted the right to conduct this business at said Airport;

NOW, THEREFORE, Licensee agrees to be bound as follows:

1. Licensor hereby grants to Licensee, in common with other authorized persons, the following privileges:

(a) The privilege of operating a Flight Training School, including actual and simulated air and ground related training.

(b) Such other related privileges as may be approved in writing by Licensor from time to time, subject to such terms and conditions as are mutually agreed upon at the time of the approval.

Licensee's use of the Airport in connection with this license shall be for the exercise of the above privileges and for no other purpose.

2. The term of this license shall extend for a period of two (2) years beginning December 1, 1985 and terminating November 30, 1987, subject to any earlier termination as hereinafter provided. This license may be terminated by either party at any time prior to the expiration hereof, as of the last day of any calendar month, by giving to the other party written notice of its intention to terminate the license at least thirty (30) days in advance of the proposed termination date. The exercise of any right of termination hereunder shall be without liability to or against either party for any damages or loss of profits which may be suffered by reason of the termination.

3. Licensee agrees:

(a) To pay Licensor a fee in the amount of five percent (5%) of the gross revenues received or receivable by Licensee whether collected or uncollected in connection with the privileges granted herein. The license fee shall apply to all of the privileges granted herein that originate from the Airport or that occur within the geographic boundaries of the City of Philadelphia, provided however the air taxi privilege shall be excluded from said fee.

(b) To pay Licensor landing fees in accordance with the schedule of landing fees that are established from time to time by Licensor, air taxi landings included.

(c) That all fees, due hereunder shall be due and payable within ten (10) days after the end of each contract month at the office of the Division of Aviation, Philadelphia International Airport, Philadelphia, Pennsylvania 19153. All rates and charges are subject to change in accordance with the Airport's rates and charges promulgated from time to time by Licensor.

(d) That charges and fees are applicable regardless of reason for landing or delays and are subject to change from time to time as established by Licensor.

(e) To satisfy all local, state, and federal requirements regulating this operation and to obtain all such permits, licenses, etc., at its sole cost and expense. Licensee shall supply Licensor with copies of any such licenses, permits, or certifications.

(f) To submit to Licensor, not later than ten (10) days after the close of each calendar month, a certified statement showing the number of landings during the previous month, and indicating the number of landings with each make and model of aircraft.

(g) To submit to Licensor, not later than ten (10) days after the close of each calendar month, a certified statement showing all revenue generated from the Flight School activities authorized herein.

(h) To furnish to Licensor and keep current, a complete schedule of aircraft used in the operation of these services. The schedule shall include make, model, type, year of manufacture, and current aircraft registration number.

(i) That all persons engaged in the operation of these services shall conduct themselves in an orderly manner at all times and shall display Licensor's approved Airport identification.

(j) To give security, on or before execution of this license in addition to any other fees then due, to insure the faithful performance of all duties and obligations pursuant to this license, in the form of a performance bond with an approved surety company as surety thereon in the amount of Fifteen Hundred Dollars (\$1500.00).

(k) If Licensee fails to make any payments due hereunder within ten (10) days of the due date, Licensee will pay the same with interest effective as of the first (1st) day after the due date at the pro-rated rate of one and one-half percent (1-1/2%) per month until fully paid. If any payment remains unpaid for a period of ten (10) days after such payment becomes due, Licenser may give Licensee notice of default, with a copy of said notice to Licensee's surety company. If Licensee fails to cure the forementioned default within ten (10) days after issuance of written notice thereof, Licenser may confess judgement upon Licensee's surety bond for all amounts due. Licensee shall be permitted the use of the cure period for financial default a total of three (3) times during the term of this license. If Licensee fails to cure a third financial default after notice in accordance with this paragraph, Licenser may confess judgement upon Licensee's surety bond for all amounts due and terminate this license forthwith without further notice and Licenser shall be free to exercise all other remedies set forth in this license.

(l) Licensee shall keep full and complete books of account and other records relating to the provisions and requirements of this license and in so doing shall comply with the minimum procedural requirements prescribed by Licenser. Licenser, through its duly authorized representative, shall have the right to inspect and audit Licensee's books of account and other records at all reasonable times during normal business hours. Licensee shall retain said records for a period of three (3) years and upon Licenser's request shall make such records available to Licenser for audit at the Airport or at some other mutually agreed upon location. Should adequate records not be made available by Licensee at the appointed location, then the additional cost of said audit including all reasonable travel, food, and lodging expenses incurred by Licenser shall at Licenser's discretion be borne by Licensee.

(m) Licensee shall, within sixty (60) days after the end of each contract year, or at such other intervals as Licenser may prescribe, submit to Licenser a written statement certified by an independent certified public accountant stating that, in the accountant's opinion, payments for all fees and charges due hereunder for the preceding year were made in accordance with the terms of this license.

4. Licenser hereby grants unto Licensee and Licensee accepts the following licenses and privileges: The right, in common with other authorized persons, to the use of the common areas of the Airport and appurtenances thereto, and any additions which may be designated by Licenser for common use, together with the facilities, equipment, improvements, and services which have been or may hereafter be provided at the Airport for common use, subject to the rates, regulations, and practices applicable thereto.

5. This license shall be subordinate to the provisions of any existing or future agreement between Licenser and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required by the provisions of the Federal Aviation Act of 1958, as amended, or any future act affecting the operation or maintenance of the Airport.

6. Licensee covenants and agrees that it will at all times during the continuance of this license or any renewal thereof:

(a) Provide a complete and proper arrangement for the frequent and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Licensee shall provide and use suitable covered metal receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels, pallets, or other similar items, in an unsightly or unsafe manner, on or about the leased premises, is forbidden.

(b) Observe and comply with any and all requirements of the constituted public authorities and with all federal, state, or local statutes, ordinances, regulations, and standards applicable to Licensee or its use of the Airport, including, but not limited to, rules and regulations promulgated from time to time by Licensor and other authorities having jurisdiction over any phase of operation in and about the Airport.

(c) Fully indemnify and save and hold harmless Licensor from and against all claims and actions, and all expenses incidental to the defense thereof, based upon or arising out of damages or injuries to persons or property caused by the fault or negligence of Licensee, its employees, guests, patrons, invitees, contractors, suppliers of materials, and furnishers of services in the use or occupancy of the Airport by Licensee; provided, however, that Licensee shall not be liable for any injury, damage, or loss caused solely by the fault or negligence of Licensor or its respective agents or employees, and provided further that Licensor shall give to Licensee prompt and reasonable notice of any such claims and actions and Licensee shall have the right to investigate, compromise, and defend the same.

(d) Be liable to Licensor for any damages, harm, or injury to the facilities of Licensor at the Airport caused by the fault or negligence of Licensee, its agents, employees, guests, patrons, invitees, contractors, suppliers of material, and furnishers of services.

(e) Maintain a policy or policies of liability insurance to insure itself against liability for injury or damage to persons and property, and such other policies as are necessary to insure any other obligations incurred herein. The said policies will be in the minimum amounts set forth below or such greater amounts as the Licensor shall, from time to time, require or approve:

Airport Liability - \$1,000,000.00 Single Limit

Aircraft Liability - \$1,000,000.00 Single Limit (including passengers)

All said policies shall name Licensor as an additional insured and shall also incorporate the following cross liability endorsement or provision:

"CROSS LIABILITY: It is understood and agreed that the insurance afforded by this policy or policies for more than one named insured shall not operate to increase the limits of the companies' liability, but otherwise shall not operate to limit or void the coverage of any one named insured as respects claims against the same named insured by any other named insured or the employees of such other named insured."

(f) Submit certificates of insurance demonstrating that all insurance coverage required by this license is in force with companies reasonably acceptable to Licensor. If Licensee neglects or refuses to obtain any of the insurance required by this license within 5 days after service of written notice upon Licensee informing it of the default, then Licensor may at its sole discretion, either procure same wherever available at the expense of Licensee or terminate this license immediately without any liability on its part. All amounts due from Licensee to Licensor under this paragraph shall be deemed additional fees, payable with and collectible with the fee provided for in this license. Licensee further agrees to furnish Licensor with such evidence of insurance required to be carried hereunder as Licensor may, from time to time, require. Licensee shall provide to Licensor not less than thirty (30) days written notice of any change in, or termination of Licensee's insurance coverage required under this Agreement.

(g) Furnish good, prompt, and efficient service, adequate to meet all the demands for its service at the Airport, and furnish said service on a fair, equal, and non-discriminatory basis to all users thereof, and charge fair, reasonable and non-discriminatory prices for each unit of sale or service; provided that Licensee may make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions.

(h) To pay all taxes of whatever nature that may be levied, assessed or charged upon the property, real and personal, or upon the rights and privileges granted hereunder.

7. Licensee further covenants that it will not:

(a) Assign, pledge, encumber, underlet or sublet this license or any part hereof.

(b) Erect, maintain or display any signs at any location on the Airport without the prior written consent of Licensor.

8. REMEDIES OF LICENSOR:

(a) If Licensee violates or fails to perform or otherwise breaks any covenant or agreement herein contained, or becomes insolvent, or makes an assignment for the benefit of creditors, or if a petition in bankruptcy is filed by or against Licensee, or if proceedings are commenced for appointment of a receiver for Licensee, or if proceedings for arrangement, reorganization, or composition of creditors under any law be instituted by or against Licensee, or if the real or personal property of Licensee is sold or levied upon by any Sheriff, Marshall, or Constable,

then there shall be deemed to be a breach of this license and thereupon ipso facto and without any action by Licensor, the fees for the entire unexpired balance of the term of this license as well as all other charges, payments, costs, and expenses herein agreed to be paid by Licensee or, at the option of Licensor, any part thereof, and also all costs and officers' commissions shall, in addition to any and all fees already due and payable and in arrears and/or any other charge, expense, or cost herein agreed to be paid by Licensee which may be due and payable and in arrears, be taken to be due and payable and in arrears as if, by the terms and provisions of this license, the whole balance of unpaid fees and other charges, payments, taxes, costs and expenses were on that date payable in advance, or in the event of any of the foregoing at any time at the option of Licensor, this license and the term hereby created shall determine and become absolutely void.

(b) In the event of any default by Licensee hereunder, Licensor, or anyone acting on Licensor's behalf, at Licensor's option:

(1) May seize Licensee's equipment and/or merchandise and proceed by distress and sale thereof to levy the fees and/or other charges herein payable and all costs and officers commissions. Licensee hereby expressly waives in favor of Licensor the benefit of all laws now made, or which may hereafter be made, regarding any limitation as to the equipment and merchandise upon which or the time within which distress is to be made after such seizure and further relieves Licensor of the obligations of providing or identifying such goods, it being the purpose and intent of this provision that all goods of Licensee, whether upon the Airport or not, shall be liable to distress for fees, other charges and expenses.

(2) May relet this license or any part or parts thereof to such person or persons as may, in Licensor's discretion, seem best, and Licensee shall be liable for any loss of fees for the balance of the then current term.

(c) If the fees shall remain unpaid on any day when the same ought to be paid, Licensee empowers any prothonotary or attorney of any Court of Record to appear for Licensee in any and all actions which may be brought for fees and/or the charges, payments, costs, and expenses agreed to be paid by Licensee, and/or to sign for Licensee an agreement for entering in any competent court an amicable action or actions for the recovery of the fees or other charges or expenses, and in said suits or in said amicable action or actions to confess judgment against Licensee for all or any part of the fees for the entire unexpired balance of the term of this license and/or other charges, payments, costs, and expenses agreed to be paid by Licensee, and for interest and costs together with an attorney's commission of 5%. Such authority shall not be exhausted by one exercise thereof, but judgment may be confessed as aforesaid from time to time as often as any of said fees and/or other charges shall fall due or be in arrears, and such powers may be exercised as well after the expiration of the original term and/or during any extension or renewal of this license.

(d) In any amicable action of ejectment and/or for fees in arrears, Licensor shall first cause to be filed in such action an affidavit, made by it or

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someone acting for it, setting forth the facts necessary to authorize the entry of judgment, of which facts such affidavit shall be conclusive evidence, and if a true copy of this license (and of the truth of the copy such affidavit shall be sufficient evidence) be filed in such action, it shall not be necessary to file the original as a warrant of attorney, any rule of court, custom, or practice to the contrary notwithstanding.

(e) Licensee expressly agrees that any judgment, order or decree entered against it by or in any court or magistrate by virtue of the powers of attorney contained in this license or otherwise shall be final, and that he will not take an appeal, certiorari, writ of error, exception or objection to the same, and releases to Licensor, and to any and all attorneys who may appear for Licensee, all errors in the said proceedings and all liability therefor. Licensee expressly waives the benefits of all laws, now and hereafter in force, exempting any equipment and/or merchandise from distraint, levy or sale in any legal proceedings taken by Licensor to enforce any rights under this license.

(f) All of the remedies hereinbefore given to Licensor and all rights and remedies given to it by law and equity shall be cumulative and concurrent. No determination of this license shall deprive Licensor of any of its remedies or actions against Licensee for fees and other charges due at the time or which, under the terms hereof, would in the future become due as if there had been no determination.

9. REMEDIES OF LICENSEE

Licensee, at its option, may declare this license terminated in its entirety upon the happening of any one or more of the following events:

(a) If Licensor fails to permit free and unobstructed ingress and egress to and from the Airport in accordance with the provisions of this license; or

(b) If a court of competent jurisdiction issues an injunction against Licensor preventing or restraining the use of the Airport for airport purposes in its entirety, or the use of any part thereof which may be used by Licensee and which is substantially necessary to Licensee for its operation, and if such injunction remains in force for a period of 90 days or more.

10. It is expressly understood and agreed by and between the parties hereto that this license sets forth all the promises, agreements, conditions, and understandings between Licensor and Licensee and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than as are herein set forth. It is further understood and agreed that, except as herein otherwise provided, no subsequent alterations, amendment, change, or addition to this license shall be binding upon Licensor or Licensee unless reduced to writing and signed by them.

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11. Any waiver by either party under this license or of any breach by the other party shall not affect similar rights subsequently arising nor operate as a waiver of subsequent breaches of the same or similar kinds nor as a waiver of the clause or condition under which said right arose or said breach occurred.

12. This license is entered into under the terms of the Philadelphia Home Rule Charter, and in the exercise of the privileges herein granted, Licensee shall not discriminate nor permit discrimination against any person because of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap.

(a) In furtherance of this covenant but without limitation thereto, Licensee agrees to provide equal employment opportunities in connection with the exercise of the privileges herein granted.

Licensee further agrees:

(1) Not to discriminate nor permit discrimination against any employee or applicant for employment with regard to hiring, tenure of employment, promotion, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap.

(2) To keep posted in conspicuous and readily accessible places customarily frequented by applicants for employment, and in at least one place customarily frequented by employees at or near each location where services are performed by such employees, copies of notices provided by the Commission on Human Relations setting forth the substance of subsection (1) of this paragraph.

(3) Not to discriminate against any sublicensee hereunder because of race, color, religion, national origin, ancestry, sex, sexual orientation, or physical handicap.

(4) To insert the provisions of subsections (1), (2), and (3) of this paragraph as covenants to be performed by the sublicensee in all sublicense contracts which are entered into by Licensee hereunder.

(b) Licensee agrees that any failure to comply with any of the foregoing requirements shall constitute a substantial breach of this license. It is further agreed that in the event the Commission on Human Relations of the City of Philadelphia, after investigation, shall determine that the Licensee or any sublicensee hereunder has failed to comply with any of the provisions of the foregoing subparagraph and the Commission shall certify such failure to Licensor, Licensor may terminate this license whereupon all obligation of Licensor to perform under this license shall cease. Licensee agrees that in addition to any other remedies available by reason of the breach of this Article, there shall be assessed against it by Licensor a penalty of \$5.00 for each person for each calendar day during which such person is discriminated against in violation of the provisions of this Article.

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13. Licensee covenants and agrees that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, ancestry, sex or sexual orientation be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Licensee assures that it will require that its covered organizations provide assurances to the Licensee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

14. Licensee covenants and agrees that in order to confirm the assurances required of the City of Philadelphia by Title VI of the Civil Rights Act of 1964 and by Part 21 of the Federal Aviation Regulations as amended, it will not, in its operation and use of the Airport, discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, creed, sex, or national origin, or physical handicap in any manner prohibited by Part 21 of the Federal Aviation Regulations. Noncompliance with this clause will constitute a material breach of this license; therefore in the event of such noncompliance, Licensee hereby authorizes Licensors to take such action as the Federal Government may direct to enforce this covenant, and Licensee also authorizes the Federal Government to take appropriate action to enforce compliance, including the right to seek judicial enforcement.

15. Licensee covenants and agrees that in accordance with Chapter 17-400 of The Philadelphia Code payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, religion, national origin, ancestry, sex, sexual orientation, or physical handicap constitutes a substantial breach of this license entitling Licensors to all rights and remedies provided in this license or otherwise available in law or equity.

Licensee agrees to include the immediately preceding paragraph, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for work to be performed pursuant to this license.

Licensee further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this license entitling Licensors to all rights and remedies provided herein or otherwise available in law or equity.

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16. Licensee covenants and agrees that nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

17. This license shall be binding upon the parties hereto, their heirs, administrators, successors, and assigns.

18. This license is entered into at Philadelphia, Pennsylvania and shall be governed and interpreted according to the laws of the Commonwealth of Pennsylvania.

19. Notices provided for herein shall be sufficient if sent by registered mail, postage prepaid; for Licensor, addressed to the Director of Aviation, Division of Aviation, Philadelphia International Airport, Philadelphia, Pennsylvania 19153, and for Licensee addressed to: Northeast Aviation Co., Inc., 9833 Dugan Road, Philadelphia, PA 19115, or to such other respective addresses as the parties may, from time to time, designate to each other in writing.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF PHILADELPHIA:

BY: _____

[Signature]
Asst. Director of Commerce

RECOMMENDED:

BY: _____

[Signature]
Director of Aviation

Approved as to Form
Barbara W. Mather City Solicitor

PER: _____

[Signature]
Divisional Deputy City Solicitor
Asst.

NORTHEAST AVIATION CO., INC:

BY: _____

[Signature]
President/Vice President/Ass't. Vice Pres.

ATTEST: _____

TITLE: _____

[Signature]
Corp. Sec'y./Ass't. Sec'y./Treas./Ass't. Treas.

CORPORATE SEAL:

89-14032

AMENDMENT NO. 1

THIS FIRST AMENDMENT TO LICENSE, made and entered into this 25th day of January, A.D., 1989, by and between the CITY OF PHILADELPHIA, a municipal corporation of the Commonwealth of Pennsylvania, through its Department of Commerce (hereinafter called "Licensor"), and NORTHEAST AVIATION CO., INC., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called "Licensee");

W I T N E S S E T H:

WHEREAS, the parties entered into a License Agreement on the 6th day of January, 1986 (hereinafter called the "License"), wherein Licensor granted certain privileges to Licensee to conduct a Flight Training School at Northeast Philadelphia Airport (hereinafter called "Airport"); and

WHEREAS, it is the desire of the parties to revise Section 2 of the License in order to extend the term.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, Licensor and Licensee hereby agree as follows:

1. The term of the License as set forth in Section 2 is hereby revised by changing the termination date from November 30, 1987 to June 30, 1989. Thereafter, this License shall be extended on a month to month basis until such time as it shall be terminated as provided for herein.

2. Except as herein provided, all other provisions of the License, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

CITY OF PHILADELPHIA

By: [Signature]
Director of Commerce
Fmldg.

NORTHEAST AVIATION CO., INC.

By: [Signature]
VJ Powell

Title: President
Ske/TERMS

Attest: _____

Title: _____

CORPORATE SEAL:

Approved as to Form:

SEYMOUR KURLAND, City Solicitor

Per: [Signature]
Chief Assistant City Solicitor

NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN
THE CITY OF LOS ANGELES AND

COVERING CHARTER PARTY CARRIER
TRANSPORTATION SERVICES TO AND FROM LOS
ANGELES INTERNATIONAL AIRPORT

THIS LICENSE AGREEMENT, made and entered into this day of _____, 19__ by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter referred to as "City"), acting by order of and through its Board of Airport Commissioners (hereinafter referred to as "Board"), and _____ (hereinafter referred to as "Licensee"),

W I T N E S S E T H

WHEREAS, City owns and operates Los Angeles International Airport (hereinafter referred to as "Airport"), in the City of Los Angeles, State of California; and

WHEREAS, Licensee is the holder of a Charter Party Carrier Permit issued by the Public Utilities Commissioner of the State of California (hereinafter referred to as "P.U.C."), authorizing Licensee to transport passengers to and from Airport on a pre-arranged charter basis with charges assessed on a vehicle mileage or time of use basis, or a combination of the two or the holder of authority granted by the Interstate Commerce Commission (hereinafter referred to as "I.C.C.") to conduct similar transportation activities; or the holder of an auto-for-hire permit issued by the City Department of Transportation; and

WHEREAS, Licensee, desires to operate the previously described bus, van, or limousine transportation service at Airport and to enter this License Agreement with City in order to conduct such operations; and

WHEREAS, it is in the best interests of City and the traveling public to make such services available;

NOW, THEREFORE, in consideration of the premises and of the covenants and conditions hereinafter contained to be kept and performed by the parties hereto, IT IS MUTUALLY AGREED AS FOLLOWS:

Sec. 1. Section Headings. The section headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this License Agreement.

Sec. 2. License. City gives Licensee, for the term and under the conditions herein set forth, a non-exclusive license to transport passengers and baggage by approved motor vehicles into and out of Airport in accordance with Licensee's rights and duties under its P.U.C. Charter Party Carrier Permit, similar

federal authority or City Department of Transportation authority. This License Agreement, however, shall not entitle Licensee to operate a package express service at Airport by either picking up or delivering packages at terminals, or to operate any vehicle at Airport with a driver or agent carrying a firearm on the person or within said vehicle.

Licensee shall not pick up passengers at Airport without first obtaining a valid trip ticket from the charter holding lot when said lot is open.

Sec. 3. Term. The term of this License Agreement shall be on a month-to-month basis commencing _____, 19__; subject however, to earlier termination, or suspension, as provided herein.

Sec. 4. Compensation to City.

(a) License Fees. As consideration for City entering into this License Agreement, Licensee shall pay to City a per trip fee from the transportation of passengers from and/or originating from Airport, or the offering of same. Vehicles will be divided into two size categories as follows: Class 1 vehicles, those seating less than 25 passengers, will pay \$1.50 per trip. Class 2 vehicles, those seating 25 or more passengers, will pay \$2.25 per trip. City reserves the right to adjust the amounts of the per-trip fee up to two times per year. Crew transportation pickups for signatory air carriers are excluded from paying the fee.

(b) "Trip" Defined. "Trip" shall, subject to exceptions hereinafter stated, be defined as any scheduled or unscheduled departure from Airport by a vehicle of Licensee, with or without passengers. "Trip" shall also be defined to include each occasion that a vehicle of Licensee circles the Central Terminal Area, or a part thereof, after two complete or partial circuits of World Way. (Note: One upper level passenger drop off operation shall not be considered in calculating the number of circuits.)

(c) Other Fees. In addition to the fees mentioned above, Licensee shall also pay all other charges, penalties or fees occasioned by its operations or activities on or about Airport.

Sec. 5. Right of Ingress and Egress. City hereby grants full and free right of ingress to and egress from Airport to Licensee, its employees, passengers, guests, invitees, suppliers of materials and furnishers of service, without charge, subject to the provisions of Section 8(b) hereinafter and City's operating rules and regulations.

Sec. 6. Loading Area. Licensee shall have the right to pick up and unload its passengers at Airport only at those locations allocated to Licensee for such purpose. All loading and unloading zones and waiting areas are subject to the approval of Executive Director. Licensee shall not park its vehicles on any road in Airport except for such period of time as may be

necessary for the immediate loading and unloading of its passengers and their baggage.

Sec. 7. Use of Airport and Demised Premises. Licensee shall use Airport only in connection with its transport business of operating passenger bus, van, or limousine, or auto-for-hire services between Airport and such points as the P.U.C., I.C.C. or D.O.T. whichever is applicable, shall duly and regularly designate through the issuance of Certificates of Convenience and Necessity or other approvals.

Licensee shall file with the Airport a copy of its current P.U.C., I.C.C. or D.O.T. authority, whichever is applicable.

Licensee shall not use sound amplifying or public address equipment at Airport unless such use and equipment are approved in writing by the Executive Director.

Sec. 8. Authorized Vehicles. Licensee shall report to the Executive Director, on forms provided for that purpose, the Vehicle Identification Number ("VIN"), license plate number, company identification number, vehicle type, passenger capacity and proof of commercial registration for each of Licensee's vehicles used in its operation at Airport. Upon receipt of the requisite information and performance of all other conditions precedent contained in this License Agreement, Executive Director may issue identification stickers or decals which shall be attached to each authorized vehicle.

Except for luxury-type, sedan style limousines, all of Licensee's vehicles operated at the Airport shall possess identical color schemes and markings, so as to be readily identifiable as belonging to Licensee; shall display the name of Licensee, or its "d.b.a.", on the front, rear and sides of each vehicle, in a type style and size so as to be readily identifiable; shall possess Licensee's company fleet vehicle identification number; and shall possess a vehicle identification City sticker or decal permanently affixed as instructed by Executive Director. Limousines shall have front and rear TCP numbers affixed per P.U.C. rules.

Licensee shall file with City a description (either photographic or otherwise) adequate to identify the color scheme and markings common to Licensee's vehicles and distinguish them visually from vehicles used by another operator.

Sec. 9. Restrictions and Regulations.

(a) Licensee agrees to abide by any and all: (1) applicable rules, regulations, orders and restrictions which are now in force or which may be hereafter adopted by City with respect to the operations of Airport; (2) orders, directives or conditions issued, given or imposed by Executive Director with respect to the use of roadways, driveways, curbs, sidewalks and parking areas in and about said Airport; (3) applicable laws, ordinances, statutes, rules, regulations or orders of any governmental authority, federal, state or municipal, lawfully exercising jurisdiction over the Airport or Licensee's occupa-

tion or use of Airport; and (4) applicable rules and regulations of City related to commercial passenger vehicles operating at Airport referred to in Section 13 hereinafter.

Nothing herein contained shall be deemed to impair Licensee's right to contest any such rules, regulations, orders, restrictions, directives or conditions or the reasonableness thereof. City shall not be liable to Licensee for any damage to, or for any diminution or deprivation of, Licensee's rights hereunder on account of the exercise of any such authority, or as may arise from Airport development or operation during the term of this License, unless the exercise thereof shall so interfere with Licensee's operations herein created as to constitute a termination, in whole or in part, of this License Agreement by operation of law.

(b) Subject to (d) below, Licensee, its employees, agents and representatives shall not in any manner pay, extend or give any type of consideration, compensation, gratuity or reward to any Airport skycap, porter, starter, ticket or information booth person at Airport, or other curbside or terminal person at Airport, unless the latter be a uniformed employee of Licensee for which Worker's Compensation benefits are paid by Licensee and whose presence and activities on Airport property are approved by Executive Director.

(c) City reserves the right to require Licensee's vehicles to stop at designated locations or use designated entry or departure routes so that City may inspect or count said vehicles and determine passenger loads.

The Executive Director is also authorized to establish and construct a staging area for commercial vehicles providing ground transportation services. The Executive Director is authorized to require that all vehicles not actively loading or unloading passengers shall be parked in a City staging area and the right to charge a fee for use of such staging area is hereby reserved. Use of the staging area shall be limited to such times as the Executive Director may allow.

(d) Nothing in this License Agreement shall be construed as authorizing Licensee to place starters, skycaps, porters, booth personnel, agents, or other personnel on the curbs or sidewalks or in the terminals at Airport without first having obtained the written consent of Executive Director or his authorized representative.

(e) Licensee agrees to operate its vehicles at Airport only when a current and valid Airport decal or sticker has been permanently affixed to the vehicle in the appropriate location. Failure to have a current and valid decal affixed on a vehicle while operating on Airport premises shall mean that Licensee does not have City approval to operate said vehicle on Airport. Licensee understands that under said circumstances the driver of the vehicle is subject to citation, the vehicle is subject to impound, and Licensee may receive a suspension or termination of operating rights on Airport. City reserves the right to determine the frequency of and occasions when new or replacement decals or stickers may be issued.

Sec. 10. Assignments. Licensee shall not in any manner, directly or indirectly, by operation of law or otherwise, assign, hypothecate, transfer or encumber this License Agreement, in whole or in part, without the prior written consent of Board. Consent to one assignment, transfer or encumbrance shall not be deemed to be a consent to any subsequent assignment, transfer or encumbrance.

When the proper consent has been received, this License Agreement shall be binding upon and shall inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties hereto.

Sec. 11. City Held Harmless. In addition to the provisions of Section 12 herein, Licensee shall defend and keep and hold City, including its Board, officers, agents, servants and employees, harmless from any and all costs, liability, damage or expense (including costs of suit and fees and reasonable expenses of legal services) claimed by anyone by reason of injury to or death of persons, or damage to or destruction of property, including property of Licensee, sustained in, on or about the Airport arising out of Licensee's use or occupancy thereof, as a proximate result of the acts or omissions of Licensee, its agents, servants or employees.

Sec. 12. Insurance.

(a) Licensee shall procure at its expense, and keep in effect at all times during the term of this License Agreement, the types and amounts of insurance specified on the Required Insurance page, attached hereto, marked "Exhibit A", and made a part hereof. The specified insurance (except for Workers' Compensation and Employers' Liability and fire and extended coverages) shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, its Department of Airports, its Board, and all of its officers, employees and agents, their successors and assigns, as insureds, against the areas of risk described in "Exhibit A" hereof as respect Licensee's acts or omissions in its operations, use and occupancy of the premises hereunder or other related functions performed by or on behalf of Licensee at Airport.

(b) Each specified insurance policy (other than Workers' Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under insured's License Agreement with the City of Los Angeles."

All such insurance shall be primary and noncontributing with any other insurance held by City's Department of Airports where liability arises out of or results from the acts

or omissions of Licensee, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Licensee. Such policies may provide for reasonable deductibles and/or retentions acceptable to the Executive Director based upon the nature of Licensee's operations and the type insurance involved.

(c) City shall have no liability for any premiums charged for such coverage(s). The inclusion of City, its Department of Airports, its Board, and all of its officers, employees and agents, and their agents and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Licensee in Licensee's operations at Airport. Upon failure of Licensee to provide and maintain the insurance required herein after ten (10) days prior written notice to comply, City may (but shall not be required to) procure such insurance at Licensee's expense.

City and Licensee agree that the insurance policy limits specified in this Section and "Exhibit A" shall be reviewed for adequacy annually throughout the term of this License by Executive Director, who may thereafter require Licensee to adjust the amounts of insurance coverage to whatever amount the Executive Director deems to be adequate.

(d) Licensee shall provide proof of all specified insurance and related requirements to City either by production of the actual insurance policy(ies), by use of City's own endorsement form(s), by broker's letter acceptable to Executive Director in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the Executive Director. The documents evidencing all specified coverages shall be filed with City prior to Licensee occupying the demised premises. They shall contain the applicable policy number, the inclusive dates of policy coverages and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) days prior to the effective date thereof. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

Sec. 13. Suspensions, Default, and Rights of Termination.

(a) Default and Termination. If either party shall fail to perform, keep or observe any of the terms, covenants or conditions herein contained on its part to be performed, kept or observed, the other party may give written notice to correct such condition or to cure such default. If such condition or default shall continue for ten (10) days after service of such notice, the party not in default may give written notice of its election to terminate this License Agreement and this License Agreement shall cease and terminate on the date stated in the termination notice. Such election to terminate by either party shall not be

construed as a waiver of any claim it may have against the other party, consistent with such termination; provided, however, that in the event Licensee's Charter Party Carrier Permit or similar federal or City D.O.T. authority, is suspended, cancelled or terminated, then this License Agreement and all rights of Licensee hereunder shall ipso facto cease and terminate. Licensee specifically covenants to immediately cease to operate on Airport property if its state, federal and/or City D.O.T. authorization is suspended, cancelled or terminated.

The foregoing provisions, however, shall not affect any rights of City if there should be any default in the payment by Licensee of the rent, fees and charges provided herein. If there be such default, City may give Licensee a ten (10) day notice to pay all sums due, owing and unpaid, and if such payment be not made within such ten (10) day period, this License Agreement and Licensee's rights hereunder shall, at the election of City stated in such notice, forthwith terminate.

(b) Suspension. Attached to this License Agreement as "Exhibit B" and by this reference incorporated herein and made a part hereof is a copy of the "Rules and Regulations of the City of Los Angeles, Department of Airports Governing the Permit Program for the Operation of Commercial Vehicles Transporting Passengers at Los Angeles International Airport" ("Rules and Regulations").

The Rules and Regulations govern Licensee's operations at Airport and Licensee agrees to strictly abide by and comply with said Rules and Regulations and to ensure that Licensees' officers, employees, agents, drivers and vehicles do also.

Violations by Licensee, its officers, employees, agents, drivers or vehicles of said Rules and Regulations are subject to the imposition by City of any or all of the following: oral or written warnings, suspensions of the Licensee's right to operate on Airport property, and/or termination of this License Agreement and all of Licensee's rights to operate to and from Airport.

Said Rules and Regulations provide for a progressive type of discipline and suspension/termination system based upon the type, nature and number of violations.

Licensee agrees to abide by City's Rules and Regulations, and any future amendments thereto, and further agrees to obey any suspension orders imposed by City. City agrees to afford Licensee the right to contest any suspension orders before an impartial hearing officer prior to imposing any suspensions. City shall not be required to use a hearing officer or procedure if it intends to terminate this License Agreement under the provision (a) above.

Licensee further covenants and agrees to only operate vehicles on Airport which have affixed to the vehicle a valid and current City decal or sticker. In addition to City's termination rights under (a) above, City may withhold issuance of current decals or stickers if Licensee fails to file monthly operating reports, pay the appropriate fees on time or keep insurance current.

Sec. 14. Attorney's Fees. If City shall, without any fault, be made a party to any litigation commenced by or against Licensee arising out of Licensee's operations and as a result of which Licensee is finally adjudicated to be liable, then Licensee shall pay all costs and reasonable attorney's fees incurred by or imposed upon City in connection with such litigation. In any action by City or Licensee for recovery of any sum due under this License Agreement, or to enforce any of the terms, covenants or conditions contained herein, the prevailing party shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements incurred in such action. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

Sec. 15. Waiver. The waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition, or of any subsequent breach of the same term, covenant or condition. The subsequent acceptance of payments hereunder by City shall not be deemed to be a waiver of any preceding breach by Licensee of any term, covenant or condition of this License Agreement other than the failure of Licensee to pay the particular payment so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such payment.

Sec. 16. Nondiscrimination and Equal Employment Practices/Affirmative Action Program.

(a) Licensee, in its operations at Airport, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color or national origin shall be excluded from participation, denied the benefits of or be otherwise subjected to discrimination in the use of the facilities covered by this License Agreement; (2) that in the furnishing of services and operations, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; and (3) that Licensee shall use premises of Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(b) Licensee agrees that in the event of breach of any of the above non-discrimination covenants, City shall have the right to terminate this License Agreement and to reenter and repossess said land and the facilities thereon, and hold the same as if said License Agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR, Part 21, are followed and completed including expiration of appeal rights.

(c) Licensee assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 CFR, Part 152, Subpart E. Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Licensee assures that it will require that its covered suborganizations provide assurances to Licensee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR, Part 152, Subpart E, to the same effect.

(d) In addition, Licensee, during the term of this License Agreement, agrees not to discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age or physical handicap. Licensee further agrees to abide by the provisions of Section 10.8.3 of City's Administrative Code, a copy of which is printed on the CERTIFICATION FOR CONTRACTS OF MORE THAN \$500 BUT NOT IN EXCESS OF \$5,000, which Certification City acknowledges Licensee has previously submitted and which shall remain valid for one (1) year from the date thereof.

(e) If applicable, Licensee also agrees to abide by the provisions of Section 10.8.4 of City's Administrative Code, a copy of which is printed on the CERTIFICATION FOR CONTRACTS OF MORE THAN \$5,000, which Certification City acknowledges Licensee has previously submitted along with a copy of its Affirmative Action Plan. Said Plan, having been approved by City, shall remain valid for one (1) year from the date of approval and, with said Certification, shall be incorporated by reference in and become part of this License. Licensee agrees that prior to the expiration of said Plan, Licensee will again submit to City its revised and/or updated Affirmative Action Plan for approval as well as another completed Certification.

(f) Licensee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided that Licensee may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

(g) Noncompliance with paragraph (f) above shall constitute a material breach thereof, and in the event of such noncompliance, City shall have the right to terminate this License Agreement without liability therefor, or at the election of City or the United States, either or both said governments shall have the right to judicially enforce the provisions in paragraphs (a) and (f) above.

Sec. 17. Taxes and Licenses. Licensee shall pay all taxes of whatever character that may be levied or charged upon Licensee's operations at Airport, or upon Licensee's improve-

ments, fixtures, equipment or other property thereon or upon Licensee's use thereof. Licensee shall also pay all license or permit fees necessary or required by law or regulation for the conduct of Licensee's business or use of Airport. This obligation, however, shall not prevent Licensee from contesting the validity and/or applicability of any of the above charges and during the period of any such lawful contest, Licensee may refrain from making, or direct the withholding of, any such payment without being in breach of the above provisions. Upon a final determination in which Licensee is held responsible for such taxes and/or fees, Licensee shall promptly pay the required amount plus all legally imposed interest, penalties and surcharges.

In addition, by executing this License Agreement and accepting the benefits thereof, a property interest may be created known as a "possessory interest." If such possessory interest is created, Licensee, as the party in whom the possessory interest is vested, shall be subject to the payment of the property taxes levied upon such interest.

Sec. 18. Notices. Written notices to City hereunder and to the City Attorney of the City of Los Angeles shall be given by registered or certified mail, postage prepaid, and addressed to said parties at Department of Airports, Post Office Box 92216, Los Angeles, California 90009, or to such other address as these parties may designate by written notice to Licensee.

Written notices to Licensee hereunder shall be given by registered or certified mail, postage prepaid, and addressed to

_____, or to such other address as Licensee may designate by written notice to City.

The execution of any such notice by Executive Director shall be as effective as to Licensee as if it were executed by Board or by Resolution or Order of said Board, and Licensee shall not question the authority of Executive Director to execute any such notice.

All such notices shall be delivered personally to Executive Director or to the Office of the City Attorney, Airports Division, in the one case, or to Licensee in the other case, or shall be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, and shall be effective upon receipt.

Sec. 19. Interpretation.

(a) Fair Meaning. The language of this License Agreement shall be construed according to its fair meaning, and not strictly for or against either City or Licensee.

(b) Void Provisions. If any provision of this License Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this License Agreement, and all such other provisions shall remain in full force and effect.

(c) Two Constructions. It is the intention of the parties hereto that if any provision of this License Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

(d) Laws of California. This License Agreement shall be construed and enforced in accordance with the laws of the State of California.

(e) Executive Director's Approval. In each instance herein where City's, Board's or Executive Director's approval or consent is required before Licensee may act, such approval or consent shall not be unreasonably withheld.

(f) Gender. The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

(g) Section 308. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act (49 USC Section 1349a).

(h) Rights of U. S. Government. This License Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between City and the United States relative to the development, operation or maintenance of Airport.

(i) War and National Emergency. This License Agreement and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation and taking over of Airport or the exclusive or non-exclusive use of Airport by the United States during the time of war or national emergency.

IN WITNESS WHEREOF, City has caused this License Agreement to be executed by Executive Director and Licensee has caused the same to be executed by its duly authorized officers and its corporate seal to be hereunto affixed,¹ all as of the day and year first hereinabove written.

CITY OF LOS ANGELES

By _____
Executive Director
Department of Airports

ATTEST:

By _____
Secretary (Signature)

(Print Name)
[SEAL]

By _____
(Signature)

(Print Name)

(Print Title)

¹ If Licensee is a partnership, a general partner should sign. If Licensee is a sole proprietorship or non-corporate business, an owner should sign.

CITY OF LOS ANGELES - DEPARTMENT OF AIRPORTS
INSURANCE REQUIREMENTS

Name: CHARTER PARTY CARRIER OPERATOR

Agreement/or Activity: NON-EXCLUSIVE LICENSE AGREEMENT

The insured must maintain insurance coverages at limits normally required of its type operation; however, the following coverages noted with an "X" are the minimum required and must be at least at the level of the Combined Single Limit indicated.

	<u>Limits</u>
<input checked="" type="checkbox"/> Workers' Compensation (Statutory)/Employer's Liability	<u>Standard</u>
<input checked="" type="checkbox"/> Broad Form All States Endorsement	
<input checked="" type="checkbox"/> Voluntary Compensation Endorsement	
<input type="checkbox"/> Longshoremen's and Harbor Workers' Compensation Act Endorsement	
<input type="checkbox"/> _____	
<input checked="" type="checkbox"/> General Liability or Aviation/Airport Liability	\$ <u>500,000</u>
<input checked="" type="checkbox"/> Automobile Liability	\$ <u>1,000,000</u>
<input checked="" type="checkbox"/> Comprehensive Form or Airport Liab.	<input type="checkbox"/> Explosion Hazard
<input checked="" type="checkbox"/> Premises and Operations	<input type="checkbox"/> Collapse Hazard
<input checked="" type="checkbox"/> Contractual (Blanket/Schedule)	<input type="checkbox"/> Underground Hazard
<input checked="" type="checkbox"/> Independent Contractors	<input type="checkbox"/> Garagekeepers Legal Liability
<input checked="" type="checkbox"/> Products/Completed Operations	<input type="checkbox"/> Hangarkeepers Legal Liability
<input type="checkbox"/> Broad Form Property Damage	<input checked="" type="checkbox"/> Owned Automobiles
<input checked="" type="checkbox"/> Personal Injury	<input checked="" type="checkbox"/> Nonowned Automobiles
<input type="checkbox"/> Broad Form Liability Endorsement	<input checked="" type="checkbox"/> Hired Automobiles
<input type="checkbox"/> Incidental Medical Malpractice	<input type="checkbox"/> _____
Aircraft Liability (Bodily injury and property damage)	\$ _____
<input type="checkbox"/> Passenger Liability (per seat)	\$ _____
Fire Legal Liability	\$ _____
Property Insurance	<u>Value of Improvements</u>
<input type="checkbox"/> % Co-Ins. <input type="checkbox"/> Actual Cash Value <input type="checkbox"/> Replacement Value <input type="checkbox"/> Agreed Amt.	
<input type="checkbox"/> covering Lessee's improvements	
<input type="checkbox"/> covering building structure	
<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Sprinkler Leakage
<input type="checkbox"/> Fire & Extended Coverage	<input type="checkbox"/> Flood \$ _____
<input type="checkbox"/> Earthquake \$ _____	<input type="checkbox"/> Windstorm
<input type="checkbox"/> Boiler & Machinery	<input type="checkbox"/> Vandalism & Malicious Mischief
<input type="checkbox"/> Debris Removal	<input type="checkbox"/> Other _____
Professional Liability	\$ _____
Discovery Period: _____	
Crime Insurance	\$ _____
<input type="checkbox"/> Comprehensive Dishonesty Disappearance & Destruction	
<input type="checkbox"/> Blanket Crime	
Fidelity Bond	
<input type="checkbox"/> Blanket Position <input type="checkbox"/> Commercial Blanket <input type="checkbox"/> _____	
Owner's Protective Liability	\$ _____
Other Insurance	\$ _____

Comments: _____

EXHIBIT A

LEASES
SKYDIVING

LF 16

LICENSE AGREEMENT

SKYDIVE BYRON
18404 MONTEVINA
LOS GATOS, CA 95030

1. GRANT OF LICENSE: Subject to the terms and conditions of this License Agreement "Agreement", effective June 16, 1991, Contra Costa County hereinafter called "County" hereby grants to Skydive Byron, a sole proprietorship, hereinafter called "Licensee", a revokable non-exclusive license to enter onto the Airport for the purpose of providing skydiving lessons and related services at Byron Airport.
2. PREMISES: County, for good and valuable consideration as hereinafter provided, and in further consideration of the faithful performance and observance by Licensee of all of the terms and conditions herein contained, does hereby give to Licensee a license to use the property described as follows: A portion of the space located in the hanger building commonly known and designated as 3000 Armstrong Road Byron consisting of approximately 850 square feet and is outlined in red on Exhibit "A" attached hereto and made a part hereof. In addition, the Licensee shall also have the right to use 519 square feet of office space on the second floor of the hangar.

Licensee shall utilize a "Drop Zone" specified by the Manager of Airports. The "Drop Zone" is initially identified as the site marked with the words "Drop Zone" in red on Exhibit "B" of this License Agreement. The "Drop Zone" may be modified from time-to-time by the Manager of Airports in the interest of safety. If it is determined that no safe "Drop Zone" can be located on airport premises. The Manager of Airports may require the licensee to establish a "Drop Zone" off of airport premises outside of the air traffic area.

Licensee shall comply with any safety directives by the Manager of Airports or his designated representative relating to safety items. Unsafe practices must be corrected immediately. The Manager of Airports or his designated representative may require the use of a radio equipped ground safety officer on duty during all times when jumping activities are occurring. It shall be the responsibility of the Licensee to provide written evidence of approval from the Federal Aviation Administration air traffic people acknowledging of jumping activities near or through published airways.
3. TERM: This license shall commence on July 27, 1991, and may be terminated without cause upon thirty days written notice by either party.

4. **FEES:** As consideration for this Agreement, Licensee agrees to pay a monthly concession fee to the County. The amount of the fee shall be a fixed \$310 per month for the office facilities plus two percent (2%) of Licensee's gross income derived from all sources of income related to Licensee's business on the Airport. All checks shall be made payable to BUCHANAN FIELD AIRPORT.

In consideration for the reduced rental fee for this premises, Licensee agrees to make the premises available for periodic night meetings upon prior notice from the Manager of Airports Office.

The monthly concession fee shall be determined and paid as follows:

- A. Licensee shall make payments of concession fees to the Manager of Airports not later than the fifteenth day (15) of each month for the prior month's business. A gross monthly income report (Monthly Report) will be submitted with each payment. The Monthly Report will list the total gross income and the individual totals for each income source resulting from Licensee's business and services provided under this Agreement. The Monthly Report shall be dated, signed and approved as correct for submission to the Manager of Airports by Licensee or an officer of Licensee's company.
- B. The amount of the concession fee shall be calculated each and every month by multiplying the gross monthly income reported on the Monthly Report by two percent (2%).
- C. At the end of each calendar year, Licensee shall submit to County, an annual income report (Annual Report). Licensee shall, at all times, keep and maintain a full and complete set of books and records which shall accurately show Licensee's annual income at the Airport for the present and three (3) previous income tax years. Said books and records shall at all reasonable times be open for inspection by County's duly authorized representatives.
- D. County reserves the right to inspect the Licensee books and records to determine the accuracy of the Licensee's Monthly and Annual Reports.
- E. The County reserves the right to revise and/or amend the Licensee's reporting requirement at any time.

5. DELINQUENT FEES: In the event that Licensee shall become delinquent in paying to County any payments due under paragraph 3. FEES for a period of thirty (30) days or more after written notice, Licensee shall pay to County interest on said unpaid balance at a rate of two percent (2%) per month, from the date said unpaid balance was due and payable until paid.
6. AIRPORT ACCESS: Manager of Airports shall designate the route and method of ingress and egress to and from Airport. "Licensee and Licensee's guests, visitors, clients and students shall use only the route designated by the Manager of Airports to enter or leave the Airport."
7. SIGNAGE: Licensee may not install a sign without the written consent of the Manager of Airports. Manager of Airports shall designate a location and provide Licensee with a sign criteria for the purpose of advertising the Licensee's services. Licensee shall submit, for approval by the Manager of Airports a suitable sign to be installed in an area designated by the Manager of Airports. Manager of Airports reserves the right to reject or have the sign modified until it is deemed suitable for installation.
8. PERMITS AND APPROVALS: Licensee shall be responsible for obtaining any permits or approvals from any agency having jurisdiction. County is acting solely in its proprietary capacity and not in any governmental capacity unless so stated. This Agreement does not constitute governmental approval for this use.
9. INSTRUMENT OF TRANSFER AND NON-DISCRIMINATION COVENANTS:
Conditions:
 - A. Instrument of Transfer: This Agreement shall be subordinate and subject to the provisions and requirements of the Instrument of Transfer by and between the United States and County dated the 9th day of October, 1947, and recorded in Book 1137, at page 114 of Official Records of Contra Costa County, California. This Agreement shall be subordinate to the provisions and requirements of any future agreement between the County and the United States, relative to the development, operations, and/or maintenance of the Airport.
 - B. Non-Discrimination:
 - (1) The Licensee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex

be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Licensee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Licensee assures it will require that its covered suborganizations provide assurances to the Licensee that they similarly will undertake an affirmative action program and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

- (2) In the event of breach of any of the above non-discrimination covenants, County shall have the right to terminate this Agreement as if said Agreement had never been made or issued.
- (3) Licensee agrees to furnish service on a fair, equal, and non-discriminatory basis to all users thereof, and to charge fair, reasonable, and non-discriminatory prices for each unit of sales or service, provided, that Licensee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Furthermore, the Licensee shall neither discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, national origin, sex or age in any manner, including, but not limited to, discrimination prohibited by applicable Federal Aviation Regulations.
- (4) Non-compliance with paragraph (3) above shall constitute a material breach thereof and a default of this Agreement and, in the event of such non-compliance, County shall have the right to terminate this Agreement and estate hereby created without liability therefore or at the election of the County or the United States either or both said Governments shall have the right to judicially enforce the provisions of paragraphs (2) and (3) of this section.
- (5) Licensee agrees that it shall insert the above four paragraphs in any agreement, contract, assignment, etc. by which Licensee grants a right or privilege to any person, firm or corporation to render services, supplies, and sales to the public on the Airport.

10. GENERAL PROVISIONS:

- A. The County reserves the right to further develop or improve the Airport as it sees fit, regardless of the desire or view of the Licensee and without interference or hindrance.
- B. The County reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Licensee from erecting or permitting to be erected any building or other structure on the Airport which, in the opinion of the County, would affect the usefulness of the Airport or constitute a hazard to aircraft.
- C. Neither the failure of County to strictly enforce all the terms of this agreement nor the acceptance of payment by the County after any breach by Licensee nor any delay on the part of the County to strictly enforce the provisions hereof, shall operate or be deemed a waiver of any rights or remedies accruing by law or by this Agreement to County by reason of any subsequent breach.
- D. In the event that any provisions herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provisions does not materially prejudice either the County or Licensee in its respective rights and obligations contained in the valid provisions of this Agreement.
- E. It is understood, that the rights provided for under this Agreement at Airport are non-exclusive. The County retains the right to enter into other agreements which might authorize similar use of the Airport and airport facilities, and such authorization shall be at the sole discretion of the County.
- F. Subject to provisions as to assignment, the covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators and assigns of all parties hereto.
- G. Time is of the essence for each provision in this Agreement.

11. INSURANCE: Licensee agrees at no cost to the County, to obtain and maintain during the entire duration of this Agreement a comprehensive liability insurance policy with a minimum combined single-limit coverage of One Million and no/100 dollars (\$1,000,000.00) for all claims and losses due to bodily injury, or death to any person, or damage to property, including loss of use thereof arising out of each

accident or occurrence, and name Contra Costa County, its officers, agents, and employees as named insured thereunder. Said coverage shall provide for a thirty (30) day written notice to County of cancellation or lapse. Evidence of such coverage shall be furnished to County prior to commencement of agreement.

12. DEPOSIT: Prior to the commencement date of this Agreement, Licensee shall deposit the amount of \$500 with the Manager of Airports as a security deposit. Said security deposit will be returned to Licensee within thirty (30) days of the end of the term of this Agreement minus any outstanding amount due to the County without interest.
13. HOLD HARMLESS: Licensee shall defend, indemnify, save, and keep harmless County its officers, agents, and employees against all liabilities, judgments, costs, and expenses which may in any way accrue against County as a consequence of the granting of this license, save and except claims or litigation arising from the sole negligence or sole willful misconduct of County.
14. ASSIGNMENT-SUBLETTING: Licensee shall not assign or sublet Licensee's right under this Agreement.
15. ALTERATION OF TERMS AND CONDITIONS: The County reserves the right to alter, amend, and/or change the terms and conditions of this Agreement upon thirty (30) days prior written notice to Licensee.
16. NOTICES: Any and all notices, request, consent, approval or communication that either party desires or is required to give to the other party under this Agreement or otherwise, shall be in writing and either served personally or sent by prepaid first-class mail and shall be effective from the date of the mailing of the same. For the purposes thereof, unless otherwise provided in writing by the parties hereto, the address of the County and the proper party to receive any such notices, request, consent, approval or communication on its behalf is:

Contra Costa County
c/o Manager of Airports
Buchanan Field Airport
510 Sally Ride Drive
Concord, CA 94520

and the address of the Licensee is:


Skydive Byron
18404 Montevina
Los Gatos, CA 95030

17. REVOCATION: In the event that Licensee uses the property for any unauthorized purpose or performs any activity on the property which is not permitted by this agreement or otherwise violates any of the terms of the conditions of this agreement, then County may revoke this agreement at any time upon 5 days written notice to Licensee".
18. ENTIRE AGREEMENT: This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. No alterations or variations of this Agreement shall be valid or binding unless made in writing and signed by both parties hereto.

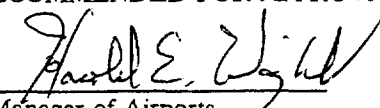
CONTRA COSTA COUNTY

LICENSEE

By 
Public Works Director

By 
Joseph J. Bango
Owner

RECOMMENDED FOR APPROVAL

By 
Harold E. Wight
Manager of Airports

By 
Lease Management

HEW:gm
skydive.lic
(6/91)

Box 36
Lio 1317

PHILADELPHIA INTERNATIONAL AIRPORT
CARGO AIRLINE LICENSE AGREEMENT

August 1992

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PHILADELPHIA INTERNATIONAL AIRPORT

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THIS CARGO AIRLINE LICENSE AGREEMENT, hereinafter called "Agreement", made and entered into this _____ day of _____, 19__, by and between the CITY OF PHILADELPHIA, a City of the first class, acting through its Department of Commerce, Division of Aviation, hereinafter called "City" and a corporation organized and existing under the laws of the State of _____ and authorized to do business in the Commonwealth of Pennsylvania, hereinafter called "Airline";

WITNESSETH:

WHEREAS, City is the owner of Philadelphia International Airport located in Philadelphia and Delaware Counties, in the Commonwealth of Pennsylvania, hereinafter called the "Airport", and

WHEREAS, Airline is engaged in the business of commercial air transportation of cargo, baggage, and mail as an air carrier and is authorized by the United States government to engage in such business; and

WHEREAS, Airline desires to obtain and City is willing to grant certain rights and privileges with respect to the Airport, upon the terms and conditions hereinafter provided;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and, intending to be legally bound hereby, City and Airline hereby agree as follows:

ARTICLE I - RIGHTS AND PRIVILEGES

Section 101. Use of Airport

City, as owner and operator of the Airport, shall and does hereby grant unto Airline, and Airline does hereby take from City certain rights, licenses, and privileges on and about the Airport as follows:

A. The right to operate an air transportation system for the carriage of cargo, baggage, and mail, including , but without limiting the generality thereof, courtesy, test, training, inspection, emergency and charter flights.

B. The right to have aircraft used in the conduct of its air transportation business repaired, maintained, conditioned, serviced, tested, parked and stored on the Airport by those authorized to provide such services on the Airport.

C. The right to have aircraft serviced with fuel, oil, greases, lubricants, or other supplies as required by those authorized to provide such services on the Airport.

D. The right to land, take-off, fly, taxi, tow, park, load and unload aircraft.

E. Subject to the availability of proper space, the right to install and operate, at airline's expense, airline identification signs. The signs shall be substantially uniform with those of other

similarly classified air transportation companies. The number, general type, size, design and location of all such signs shall be at the discretion of, and subject to the prior written approval of City.

F. The right to purchase services or otherwise obtain personal property of any nature on the Airport from those authorized to provide such services or supplies on the Airport.

G. The rights and privileges hereinabove granted are subject to the limitations of law, leases and concession contracts either presently existing or as may be approved by City in future. Nothing contained herein shall be construed as authorizing Airline to conduct a separate business, or businesses, but shall permit Airline to perform or to have performed such functions only as are incidental to the operation of its own transportation system. It is understood and agreed that City is the primary provider of Airport concessions and concessionaires, including, but not limited to, such services as ground handling and fueling. As primary supplier City shall not be deprived of concession revenues by Airline's purchase of supplies and services from non-concessionaires. It is the intent of the parties, therefore, that to the extent that Airline or its suppliers compete with the concessionaires of City, City shall not be deprived of concession revenue by such competition and nothing in this Agreement shall prohibit City from charging airline or its suppliers the standard rates charged to concessionaires in connection with items normally sold by concessionaire.

Airline in recognition of the principles stated herein further agrees not to divert any concession trade from the Airport to non-concessionaires for the purpose of avoiding Airport fees and charges. City, in its sole discretion, shall make any determination of such diversion.

H. The scope of this Agreement is limited to the rights, licenses and privileges stated above. It does not provide for the exclusive use or occupation of space and facilities for the accommodation of passengers, cargo or equipment which are normally covered by lease.

Section 102. Access

Subject to the provisions hereof, City hereby grants to Airline the following rights and privileges of ingress and egress with respect to the Airport:

A. For airline, and its authorized agents, employees, contractors, subcontractors, suppliers of materials and furnishers of service: to the public areas of the Airport and to those areas and facilities designated herein for use by Airline. This rights shall extend to aircraft, vehicles, machinery and equipment used by, or for Airline in its air transportation business.

B. The ingress and egress provided for herein shall not be used, or enjoyed by or extended to any person, or vehicle engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized by City.

ARTICLE II - TERM

Section 201. Term

Airline shall have and hold the rights, licenses and privileges set forth herein for a _____ year period commencing on _____ and expiring without notice on _____, (the "Initial Term"). The Initial Term and any extensions as provided in Section 202. below shall together be referred to as the "Term".

Section 202. Extensions of Term

The Term of this Agreement shall continue on a year to year basis until terminated by either party by written notice sent sixty (60) days prior to the expiration of the then current year of the Term.

ARTICLE III - FEES

Section 301. Fees

Airline shall pay to City during the Term hereof, without demand or notice, other than required invoices, and without deduction or set off, for the rights, licenses and privileges granted hereunder, the following fees:

A. A monthly Landing Fee shall be charged based upon Airline's aircraft arrivals at the Airport during said month. The monthly Landing Fee shall be calculated by multiplying the maximum allowable gross landing weight for each aircraft arrival by the Landing Fee rate then in effect. The current Landing Fee rate is \$1.37 per thousand pounds of maximum allowable gross landing weight. Flights that are diverted to the Airport because of mechanical, meteorological, or other causes shall be considered the same as revenue flights, except that if a revenue flight is required to return to the Airport because of such mechanical, meteorological, or other precautionary reasons, no Landing Fee shall be charged.

B. It is understood and agreed that Airline's billing for Landing Fees, shall in no event be less than seven thousand five hundred dollars (\$7,500.00) per month for a total annual minimum of ninety thousand dollars (\$90,000.00) per year.

Section 302. Adjustment of Fees

The Landing Fee rate will be subject to change from time to time by City. Said adjustment shall be to rate levels comparable to those charged to other air carriers in the same class at the Airport. Said adjustments shall be come effective immediately upon notification by City.

ARTICLE IV - REPORTS, PAYMENTS, RECORDS

Section 401. Reports and Payments

A. At the close of each calendar month, Airline shall calculate the Landing Fee due for that month. Said fees shall be due and payable for each month no later than the last day of the following month and they shall be submitted along with:

(1) A monthly Schedule Data Report (Form 72-35) showing the number of flight arrivals operated by Airline during the previous month including the type, model and make of aircraft. Aircraft Used in Philadelphia Service (Form 72-109) showing the certified maximum gross landing weight of each aircraft, shall be submitted prior to commencement of service and annually thereafter and whenever changes in the aircraft occur;

(2) A Traffic Activity Summary (Form 72-36) indicating all cargo activity for the previous month;

(3) A Self-Invoicing form and an check in the full amount of the Landing Fees for said month, or a check in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00), the monthly minimum provided for herein shall be due and payable monthly but shall be calculated on an annual basis. Within sixty (60) days of the expiration or termination of this Agreement, City will prepare and submit to Airline a statement showing the monthly fees paid the annual fees due. The annual fees shall be the greater of either than annual minimum of Ninety Thousand dollars (\$90,000.00) or charges based on Airline's actual annual activity. If the total of the monthly fees paid by Airline during said period exceed the annual fees due, then such overpayment shall be credited to Airline's account. Fees for periods of less than one year will be pro-rated accordingly.

B. The acceptance by City of any such payment shall not preclude City from questioning the accuracy of Airline's report upon which the fees are based. City, as provided for in this Agreement shall have the right, upon reasonable notice, to examine that portion of the books and records of Airline relevant for the purpose of ascertaining that the amounts paid or to be paid to City are correct.

C. In the event that Airline fails to transmit to City the payment and the supporting data for Landing Fees incurred by Airline during said month, City shall compute such fees based upon data available as though the number of landings and the cargo statistics were the same as during the highest month in the immediately preceding fiscal year or in the current fiscal year, whichever is higher. After receipt of the required, but delinquent payment and report from Airline, City shall recalculate the fees for the month in question based upon the report. If the actual fees are higher than those fees invoiced to Airline, the deficiencies shall be included by Airline along with the next monthly payment. If the actual fees are less than those fees invoiced to Airline, the excess shall be taken as a credit by Airline as part of the next monthly payment for such fees.

D. Airline will submit all reports and fees due hereunder to the office of the Division of Aviation, at the address set forth in the section of this Agreement entitled "Notices".

Section 402. Records

Airline shall keep full and complete books of account and other records relating to the provisions and requirements of this Agreement and in so doing shall comply with the minimum procedural requirements prescribed by City. City, through its duly authorized representative, shall have the right to inspect and audit Airline's books of account and other such records for a period of three (3) years and upon City's request shall make such records available to City for audit at the Airport or at some other mutually agreed upon location. Should adequate records not be made available by Airline at the appointed location, then the additional cost of said audit including all reasonable travel, food, and lodging expenses incurred by City shall at City's discretion be borne by Airline.

Airline shall at such intervals as City may prescribe submit to City a written statement certified by an independent certified public accountant stating that, in the accountant's opinion, payment for all rentals, fees and charges due hereunder were made in accordance with the terms of this Agreement.

ARTICLE V - INSURANCE, SURETY

Section 501. Insurance

A. Airline will maintain a policy or policies of liability insurance to insure itself against liability for injury or damage, to persons and property. The said policies will be in the minimum amounts set forth below or such greater amounts as the Director of Aviation shall, from time to time, require or approve:

Aircraft Liability - \$20 Million Single Limit, each occurrence
(Including Bodily Injury & Property Damage)

Airport Liability - \$20 Million Single Limit, each occurrence
(Including Bodily Injury & Property Damage)

Automotive Liability - \$5 Million Single Limit, each occurrence
(Including Bodily Injury & Property Damage)

Workers Compensation - as required by law.

Employers Liability - as required by law.

B. With respect to the insurance listed above the following shall apply:

1. All of the foregoing policies shall be provided on an "occurrence" basis and not on a "claims made" basis.

2. The City of Philadelphia, its officers, employees and agents, shall be named as additional insureds on all policies required hereunder except Workers' Compensation and Employers' Liability. All such policies shall include an endorsement stating that the coverage afforded these parties as additional insureds will be primary to any other coverage available to them.

3. Certificates of insurance evidencing the required coverage shall be submitted to the Division of Aviation at the address set forth in the Section hereof entitled "Notices" and the City's Risk Manager (1600 Arch Street, 2nd Floor, Philadelphia, PA 19103) at least ten (10) days before commencement of the term. Airline's failure to furnish certificates of insurance as required herein shall be considered as a default with a cure period of five (5) days after receipt of written notice thereof. Thereafter, and without further notice to Airline, City may exercise any and all remedies set forth in this Agreement and at law or equity.

4. Airline shall furnish certified copies of the original policies of all insurance required under this Agreement at any time within ten (10) days after written request by City.

5. All insurance policies shall provide for at least sixty (60) days prior written notice to be given to City in the event coverage is materially changed, cancelled or not renewed (with language requiring that the insurer only endeavor to give notice and releasing the insurer from any liability or obligation for failure to give such notice deleted). At least ten (10) days prior to the expiration of each policy, Airline shall deliver to City a certificate or certificates evidencing a replacement policy to become effective immediately upon the termination of the previous policy.

6. From time to time during the term of the contract and in any event not more frequently than every year, the City may adjust the amounts, types and deductibles of insurance coverage required to reflect changed circumstances affecting insurance requirements.

7. Airline shall furnish City with proof that the premiums for all insurance required hereunder have been paid in full. Such proof shall be provided in writing at the time of the delivery of the certificates of insurance.

8. If Airline fails to cause such insurance to be maintained, City shall not be limited in the proof of any damages which City may claim against Airline or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but City shall also be entitled to recover as damages, expenses of suit and costs, including without limitation, reasonable cancellation fees, suffered or incurred during any period when Airline shall have failed or neglected to provide insurance as required herein.

9. The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in this Agreement by Airline to City or to limit

City's liability under this Agreement to the limits of the policies of insurance required to be maintained by Airline hereunder.

C. Airline shall not do, or suffer to be done, any matter or thing whereby, or in consequence whereof, the policy or policies of insurance shall become voided or suspended, or which increase the risk or hazard of fires in or on the Airport unless, in the latter case only, such increased risk or hazard is adequately insured in City's sole discretion and the use creating such increased risk or hazard is permitted under Section 2.

D. Airline shall not permit separate insurance to be carried which relates to the Airport and is concurrent in form or contributing, in the event of loss, with that required to be maintained under this Agreement, or increase or permit to be increased the amounts of any then existing insurance relating to the Airport by securing an additional policy or additional policies, without including the applicable parties required in this Section as insured parties or additional insureds. Airline immediately shall notify City whenever such separate insurance is obtained and deliver to City certificates evidencing such policies and, upon request, certified copies or duplicate originals of the same (as required in this Section and in accordance with the procedures set forth herein).

E. Airline hereby releases City, its agents and employees, to the extent of Airline's coverage under the insurance policies which are required to be maintained by Airline under this Agreement (or more, if greater insurance coverage is actually carried or, if Airline breaches its obligation to maintain insurances required by this Agreement, to the extent of coverage which Airline would have had in the absence of such breach) and the deductible thereunder, from any and all liability, for any loss or damage which may be inflicted upon the Airport, notwithstanding that such loss or damage shall have arisen out of the negligent or other tortious act or omission of City, its agents or employees. Airline shall cause its insurers to include in their respective policies a clause to the effect that such release shall not affect the said policy or the right of the insured to recover thereunder.

Section 502. Surety

Airline will give security, on or before execution of this Agreement to insure the faithful performance of its duties and obligations hereunder, in the form of a performance bond in an amount equal to forty-five thousand dollars (\$45,000.00). The bond shall be written by a surety company approved by the City and qualified to do business in the Commonwealth of Pennsylvania. The bond shall be on the City's bond forms. Upon the occurrence of a default (as defined in the License General Terms and Conditions attached hereto), City shall have the right to exercise all rights and remedies under the bond, in addition to all other rights and remedies available to City under this Agreement or in law or equity.

ARTICLE VI - AIRPORT SECURITY PROGRAM

Section 601. Airport Security Program

A. In accordance with regulations issued by the U.S. Department of Transportation, Federal Aviation Administration ("FAA") and found at 14 Code of Federal Regulations ("CFR") Part 107, airports are required to have FAA-approved security programs. These programs are designed to control access to certain areas of airports and to control the movement of people and vehicles within those areas.

B. City has a FAA-approved security program for the Airport. Airline is required, at all times during the Term, to comply with City's security program for the Airport.

C. Airline shall indemnify, defend and hold City harmless against all fines and charges and any other punitive measures in connection with breaches of security on the Airport or any other violations of Airport security resulting directly or indirectly from Airline's activities on the Airport.

ARTICLE VII - NOTICES

Section 701. Notices

Notices provided for herein shall be deemed given if sent by certified or registered mail or by recognized overnight delivery service, postage or charges prepaid, for City addressed to: Director of Aviation, Department of Commerce, Division of Aviation, Airport Business Center, 3751 Island Avenue, Philadelphia, Pennsylvania 19153, with a copy to the City Solicitor, City of Philadelphia Law Department, 1600 Arch Street, 8th Floor, Philadelphia, Pennsylvania 19103, and for Airline address to:

or to such other respective addresses as the parties may, from time to time, designate to each other in writing in the manner set forth above.

ARTICLE VIII - GENERAL TERMS AND CONDITIONS

Section 801. General Terms and Conditions

This Agreement is subject to the "License General Terms and Conditions (No Premises)", which are attached hereto as Attachment "1" and which hereby are incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF PHILADELPHIA

By: _____
Deputy Director of Commerce

By: _____
President/Vice President

Attest: _____
Secretary/Treasurer

Approved as to Form
JUDITH E. HARRIS, City Solicitor

Per: _____
City Solicitor

CORPORATE SEAL:

ATTACHMENT "1"

LICENSE GENERAL TERMS AND CONDITIONS (NO PREMISES)

1. Ingress and Egress, Common Areas

(A) Licensor hereby grants to Licensee the right and privilege of ingress and egress to Licensee's area where permitted activities take place ("Activity Area") over the Airport service roads and airfield for Licensee, its employees, contractors and subcontractors, suppliers of goods and materials, furnishers of service, agents, guests, patrons, and invitees.

(B) Licensee shall have the right, in common with others so authorized, to the use of the common areas of the Airport and appurtenances thereto, such as the airfield and parking lots and any additions thereto which may be designated by Licensor for common use together with the facilities, equipment, improvements and services which have been or may hereafter be provided at the Airport for common use, subject, however, to the regulations and practices, and the payment by Licensee of such rates and charges, as may be applicable thereto at the time of such use.

2. Airport Modifications

It is understood and agreed by the parties that major Airport modifications may take place during the term of this License and the parties further agree that in the event Licensor in its sole discretion shall determine that it is necessary or proper in order to facilitate the planning, design or construction of any such modifications Licensor may direct Licensee to vacate and/or relocate any and all Activity Areas and any improvements authorized hereunder and restore the Activity Area to Licensor's satisfaction. In the event Licensor shall direct such vacating, removal, relocation, or restoration Licensee shall immediately proceed to perform such work at its sole cost and expense. It is understood and agreed that there shall be no liability by Licensor to Licensee for any damages or loss of profits or cost by reason of such vacating, removal or relocation of Activity Areas or any improvements or restoration of Activity Areas.

3. Payment of Rental Fees and Charges

(A) All rental and fees and charges shall be due and payable on the due dates set forth elsewhere in this License. Rental due for periods of less than one month shall be prorated on a daily basis based on a calendar year of 365 days.

(B) Licensee shall pay any and all charges incurred, not later than thirty (30) days after mailing or transmittal of an invoice by Licensor to Licensee.

(C) All payments due hereunder shall be made payable to the City of Philadelphia and mailed to the Licensor at the address set forth in the section of this License entitled "Notices". Payments made by check shall be received by the Licensor subject to collection. Licensee agrees to pay on demand by Licensor any charges incurred by Licensor for collection.

(D) If Licensee fails to make any payments within ten (10) days of the due date, Licensor may, in addition to other rights and remedies under this License or at law or equity, impose an interest charge computed from the due date at the pro-rated rate of one and one-half percent (1 1/2%) per month on all late amounts due until fully paid.

4. Improvements, Trade Fixtures

(A) Licensee shall not make or permit any alterations, additions or improvements (hereinafter collectively called "Improvements") to any Activity Area without Licensor's prior written consent, which may be granted or withheld in Licensor's sole discretion. Licensee shall construct all permitted Improvements in accordance with such plans and specifications which have the prior written approval of Licensor, which may be granted or withheld in Licensor's sole discretion. Any Improvements shall become fixtures annexed to the realty and title thereto shall vest in Licensor upon the expiration or earlier termination of this License. Licensee shall not remove such Improvements from any Activity Area upon the surrender thereof; provided, however, that Licensor may require Licensee to remove them and return the Activity Area to its original condition upon the surrender thereof, all to the satisfaction of Licensor. All of the permitted Improvements shall be completed with due diligence and at Licensee's sole expense.

(B) Plans and specifications for all proposed Trade Fixtures must be submitted to Licensor, for Licensor's written approval with respect to both the items and the method of installation, prior to

installation, which may be granted or withheld in Licensor's sole discretion. All Trade Fixtures shall be in accordance with the highest current standards and practices of the trade and shall, in the opinion of Licensor, be safe, fire-resistant and suitable in appearance, quality and quantity.

5. Maintenance and Repair

(A) Licensee shall, at its sole cost and expense, assume complete maintenance responsibility for all Activity Areas and any Improvements thereon, which shall include, but not be limited to general janitorial service. Licensee shall provide a complete and proper arrangement for the frequent and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Licensee shall provide and use suitable covered metal receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons or other similar items on or about the Airport is forbidden.

(B) In addition to Licensee's obligations under the preceding paragraph, if a notice of violation is issued by any governmental authority relating to the Activity Area, Licensee shall at its own cost and expense, make all repairs, alterations and renovations and take such other action with respect to the Activity Area as may be necessary to comply with such notices of violation.

(C) Licensee shall keep all equipment, fixtures and furnishings of any nature used in connection with its operation, whether owned by Licensor or by Licensee, in good condition, order and repair at all times. Should damage occur, repair and/or replacement shall be made by Licensee at the election and to the satisfaction of Licensor. All equipment, fixtures and furnishings of any nature which in the opinion of Licensor are worn or damaged so as not to present a good appearance or become incapable of being kept in good working order must be removed and replaced by Licensee upon receipt of written notice to that effect from Licensor. All maintenance, repair and replacement of equipment, fixtures and furnishings shall be at Licensee's sole cost and expense.

(D) Licensor or its authorized agents may, at any reasonable time, without notice, enter upon the Activity Area to determine if reasonably satisfactory maintenance is being performed. If it is determined that said maintenance is not reasonably satisfactory, Licensor shall so notify Licensee in writing. If said maintenance is not commenced by Licensee within thirty (30) days after receipt of written

notice and pursued with due diligence, in addition to its other rights, Licensor, or its agents shall have the rights, but not the obligation, to perform the maintenance therefor. The cost for the performance of such maintenance by Licensor shall be borne by Licensee and shall be due upon demand.

6. Signs

Licensee shall not, without the prior written approval of Licensor, which may be granted or withheld by Licensor in its sole discretion, erect, maintain or display any signs in the Activity Area or at any other location on the Airport. In addition to Licensor's approval, Licensee shall at its sole cost and expense obtain the approval of all other local, state and federal agencies as may be required.

7. Inspection and Access

(A) Licensor may enter upon any Activity Area at any reasonable time for any purpose necessary, incidental to, or connected with any matter related to Airport modifications or as may be required in the operations, maintenance, or development of the Airport, or to determine whether Licensee has complied or is complying with the terms and conditions of this License.

(B) Licensor reserves to itself an irrevocable right and easement to install, maintain, repair, replace, or remove and replace water or sewer pipes, electrical lines, gas pipes, or any other utilities or services on the Activity Area, and the Improvements thereon, along with access to the Activity Area at all reasonable times in order to accomplish any actions permitted by such rights and easement, provided however Licensor shall take reasonable precaution to avoid the disruption of Licensee's authorized business activities.

8. Title - Redelivery of Premises

(A) Title to all of Licensee's trade equipment, materials, supplies and furnishings or other personal property shall at all times during the Term of this License remain in Licensee. Subject to Licensor's rights as set forth in Section 19 hereof, upon expiration or earlier termination of this License all such items shall be removed from the Activity Area, and the Activity Area and any Improvements, upon surrender thereof, shall be restored to the satisfaction of the Licensor, normal wear and tear excepted. Said removal and restoration shall be at the sole cost and expense of Licensee. In the event that all of Licensee's property is not removed and the Activity Area with any Improvements restored to Licensor's

satisfaction, immediately upon expiration or termination of this License, then Licensor, in addition to its other rights, may, but shall not be obligated to, do so at Licensee's expense.

(B) Licensee shall, upon expiration or earlier termination of this License, cease all activities and vacate the Airport peaceably and quietly.

9. Personnel

Licensee shall appoint a local representative who shall have the authority to make day to day decisions and shall be responsible for coordinating all activities with the Licensor. The name, address and telephone number of the local representative is to be submitted to Licensor immediately, and Licensor is to be notified of any changes related to the local representative.

10. Assignment

(A) Licensee shall not assign, mortgage, pledge or otherwise transfer this License by operation of law or otherwise, without obtaining the prior written consent of Licensor, which may be withheld or granted in Licensor's sole discretion. In the event such assignment is approved by Licensor, such approval shall in way relieve Licensee of any contractual obligations assumed under this License unless Licensor specifically consents thereto, and such approval shall not constitute a waiver of strict future compliance by Licensee with the provisions of this Section.

(B) If Licensee is a corporation (other than a corporation whose stock is traded through a national or regional exchange or over-the-counter), any transaction or series of transactions (including without limitation any dissolution, merger, consolidation or other reorganization of Licensee, or any issuance, sale, gift, transfer or redemption of any capital stock of Licensee, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Licensee, other than by reason of death, shall be deemed to be a transfer of Licensee's interest under this License for the purpose of this Section. If Licensee is a partnership, any transaction or series of transactions (including without limitation any withdrawal or admittance of a partnership or any change in any partners' interest in Licensee, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Licensee, other than by reason of death, shall be deemed to be a transfer of Licensee's interest under this License for the purpose of this

Section. The term "control" as used in this Section means the power to directly or indirectly direct or cause the direction of the management or policies of Licensee. If Licensee is a corporation, a change or series of changes in ownership of stock which would result in direct or indirect change in ownership by the stockholders or an affiliated group of stockholders of less than fifty percent (50%) of the outstanding voting stock of Licensee as of the date of the execution and delivery of this License shall be considered a change of control.

11. Compliance with Laws, Regulations

(A) Licensee shall observe and comply with any and all requirements of the constituted public authorities and with all federal, state, or local statutes, ordinances, regulations, and standards applicable to Licensee or its activities on the Airport, including, but not limited to, rules and regulations issued from time to time by Licensor's Division of Aviation and other authorities having jurisdiction over any phase of operation in and about the Airport.

(B) Licensee shall not install, maintain, or operate any coin-operated device or any machine for the vending of food, beverages, tobacco, or merchandise of any other kind unless otherwise expressly authorized to do so in writing by Licensor.

(C) Licensee shall not furnish, maintain, store, or cause or permit to be furnished, maintained or stored, gasoline, fuels, lubricants, or other flammable materials on the Airport without the prior written consent of Licensor, which may be withheld or granted in Licensor's sole discretion.

(D) Licensee shall not engage, and shall not permit others to engage, in operations at any Activity Area which involve the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of "hazardous substances" or "hazardous wastes" as defined in any Federal, state or local environmental law, statute, ordinance, rule or regulation without the prior written consent of Licensor, which may be withheld or granted in Licensor's sole discretion. Licensee shall, at Licensee's own expense, comply with, and cause any and all sublicensees to comply with the Pennsylvania Hazardous Sites Cleanup Act (Act 108), the Comprehensive Environmental Response, Compensation & Liability Act (42 U.S.C. 9601 et seq.), and any and all applicable Federal, state and local environmental laws, statutes and ordinances, and any and all amendments thereto and the rules, regulations and orders promulgated

thereunder. Licensee shall, at Licensee's own expense, make all submissions and provide all information to, and comply with all requirements of, the Pennsylvania Department of Environmental Resources and any other Federal, state or local authority requirement that a cleanup plan be prepared and that a cleanup be undertaken because of any spills or discharges of hazardous substances or wastes caused by Licensee or any sublicensees or resulting from Licensee's operations in or about the Airport which occur during the Term of this License. In such event, Licensee shall, at Licensee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. Without limiting the generality of Section 17 below, Licensee shall indemnify, defend and save harmless Licensor from all fines, suits, procedures, claims and action of any kind arising out of or in any way connected with any spills or discharges of hazardous substances or wastes caused by Licensee or any sublicensees, agent, employee, contractor or invitee, or resulting from Licensee's or any sublicensee's operations in or about the Airport which occur during the Term, and from all fines, suits, procedures, claims and actions of any kind arising out of Licensee's failure to provide all information, make all submissions and take all actions required by any Federal, state or local authority, or arising out of Licensee's failure to cause any sublicensees to do the same. Licensee's obligations and liabilities under this Subsection (D) shall (1) continue so long as Licensor remains responsible for any spills or discharges of hazardous substances wastes in or about the Airport which occur during the Term and (2) survive the expiration or sooner termination of this License.

12. Non-Discrimination

(A) Local Requirements

(1) This License is entered into under the terms of the Philadelphia Home Rule Charter and in the exercise of the privileges herein granted, Licensee shall not discriminate nor permit discrimination against any person because of race, color, religion, national origin, sex or ancestry. Without limiting any other provision of this License, Licensee agrees to comply with the Fair Practices Ordinance of the City of Philadelphia (Section 9-1100 of the Philadelphia Code), as amended from time to time.

(2) Licensee covenants and agrees that in accordance with Chapter 17-400 of the Philadelphia Code, payment or reimbursement of membership fees or other expenses associated with

participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment, on the basis of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap constitutes a substantial breach of this License entitling Licensor to all rights and remedies provided in this License or otherwise available in law or equity.

(a) Licensee agrees to include the immediately preceding paragraph, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for work to be performed pursuant to this License.

(b) Licensee further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this License entitling Licensor to all rights and remedies provided herein or otherwise available in law or equity.

(B) Federal Requirements

(1) Licensee covenants and agrees that in order to confirm the assurance required by the City of Philadelphia by Title VI of the Civil Rights Act of 1964 and by 49 CFR Part 21 of the regulations governing the U.S. Department of Transportation ("DOT"), as amended, it will not, in its operation and use of the Airport, discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, or national origin in any manner prohibited by 49 CFR Part 21. Noncompliance with this clause will constitute a material breach of this License; therefore in the event of such noncompliance, Licensee hereby authorizes Licensor to take such action as the Federal Government may direct to enforce this covenant, and Licensee also authorizes the Federal Government to take appropriate action to enforce compliance, including the right to seek judicial enforcement.

(2) Licensee covenants and agrees that it will undertake an affirmative action program if required by 14 CFR Part 152, Subpart E, as amended from time to time. Licensee assures that it will require that its covered suborganizations provide assurances to the Licensee that they similarly will

undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

13. Supervening Law Licenses

(A) Nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 306 of the Federal Aviation Act or any other statute, ordinance, regulation or policy of any governmental agency having jurisdiction over the Airport and/or the activities that take place at the Airport.

(B) This License shall be subordinate to the provisions of any existing or future agreement between Licensor and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required by the provisions of the Federal Aviation Act of 1958, as amended, or any future act affecting the operation or maintenance of the Airport.

(C) In the event that the Federal Aviation Administration requires, as a condition precedent to the granting of funds for the improvement of the airport, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this License, then Licensee agrees that such changes as may be reasonably required to enable Licensor to obtain said funds shall be permitted.

(D) Licensee shall obtain all necessary approvals and furnish at its own expense all licenses, permits and authorizations necessary for any permitted Improvements and the undertaking of all activities described herein.

14. Taxes

(A) Licensee shall pay, before any fine, penalty, interest or cost may be added, all taxes, assessments, governmental fees and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of whatever character that may be levied, assessed or charged upon or with respect to any income received by Licensee from its activities on the Airport, the property, real and personal, occupied, used or owned by Licensee or upon the privileges of Licensee to occupy space at the Airport, or upon Licensee's improvements, fixtures, equipment, or other property thereon. Licensee also shall pay all transfer taxes, if any, due in connection with this License. Also, Licensor will assess and collect from Licensee any applicable Use and Occupancy Tax on behalf of the School District of the City of

Philadelphia. Licensee may contest, in its own name or in the name of Licensor the validity or amount of any tax or charge in lieu of tax it shall hereunder be required to pay to Licensor or to a taxing authority; provided, however, that Licensee shall pay such tax or charge under protest to the taxing authority and indemnify and hold Licensor harmless from all liability and expense arising out of, or for, such contest. Licensee shall not permit a lien or encumbrance to attach to the Premises by reason of any failure of tax or charge payment.

(B) Licensee's failure to comply with applicable provisions of Section 14(A) above shall be a default under this License.

15. Holding Over

If Licensee shall, with the consent of Licensor, hold over after the expiration of the Term hereof, such tenancy shall be deemed a month-to-month tenancy, which may be terminated upon ten (10) days written notice. During such tenancy, Licensee agrees to be bound by all the terms and conditions herein. If Licensor shall not give consent to such hold over by Licensee, such holdover shall constitute a default under this License, Licensor shall be entitled to all of its remedies hereunder and in law or equity, and until Licensee has vacated the Airport, it agrees to pay to Licensor fees and charges at double the rate payable by Licensee at the expiration of the Term of this License.

16. Liens

Licensee shall not permit a mechanic's lien for any labor or materials to attach to the whole or any part of the Airport or any Improvements constructed by Licensee and Licensee hereby agrees that if a mechanic's lien is filed upon all or any portion of the Airport or the Improvements, Licensee shall protect and save harmless the Licensor against any loss, liability or expense whatsoever, by reason thereof and shall defend at its own expense such action or proceedings as may be necessary to remove such lien from the records within forty-five (45) days of notice from Licensor to Licensee of the existence of said lien. Notwithstanding anything to the contrary herein contained, Licensee may contest the validity of any mechanic's lien so long as the Airport and Improvements are protected by Licensee's posting of a bond in the amount of the lien.

17. Indemnification Hold Harmless Liability

(A) Licensee shall indemnify and hold harmless Licensor, its agents, employees, boards, and commissions from and against any and all suits, claims, causes of action, liabilities, losses, costs and expenses (including without limitation, attorneys' fees) of every kind (whether or not arising from the negligence or willful misconduct of Licensor) relating to or arising in connection with:

(1) Any act or omission of Licensee, its agents, directors, officers, owners, employees, members, contractors, subcontractors, licensees, tenants, subtenants, or invitees in, on or about any Activity Area, or in connection with Licensee's activities on the Airport;

(2) Any accident, injury, death or damage to any person or property at the Airport caused, in whole or in part, by Licensee, its agents, directors, officers, owners, employees, members, contractors, subcontractors, sublicensees, tenants or subtenant;

(3) Any breach, violation or nonperformance of any covenant, term or condition of this License to be performed or observed by Licensee, or of any restrictions of record or of any laws, ordinances, statutes, rules, codes or regulations, affecting Licensee's activities or use of the Airport.

(4) Any encroachment of Improvements made by Licensee upon property adjoining the Airport; and

(5) Any tax attributable to the execution, delivery or recording of this License.

(B) In case any action or proceeding is brought against Licensor by reason of any matter referred to in this Section, Licensee, upon written notice from Licensor, shall at Licensee's sole cost and expense, resist or defend such action or proceeding by counsel approved by Licensor in writing, provided that no approval of counsel shall be required in each instance where the action or proceeding is resisted or defended by counsel of an insurance carrier obligated to resist or defend such action or proceeding, and further provided that Licensor may engage at its expense its own counsel to participate in the defense of any such action.

(C) Notwithstanding anything contained in this License to the contrary, nothing in this License shall waive, or be construed to waive, any power or authority of Licensor under all applicable laws, ordinances, statutes, rules and regulations.

(D) The provisions of this Article as they apply to occurrences, or actual or contingent liabilities arising during the Term of this License shall survive the expiration or any earlier termination of this License.

(E) The indemnification and liability to the Licensor by Licensee as set forth above, shall also apply to any and all environmental matters and shall also include but not be limited to Licensee's duty to pay any fines and satisfy any punitive measures imposed upon Licensor by governmental agencies and Licensee's duty to pay Licensor for any costs or liability incurred by Licensor in connection with safety measures, containment and/or clean-up of environmental matters.

(F) The indemnification and liability to the Licensor by Licensee as set forth above, shall also apply to any and all security matters and shall include but not be limited to Licensee's duty to pay any fines and satisfy any punitive measures imposed upon Licensor by the FAA and any other governmental agencies in connection with breaches of security rules and regulations.

18. Damage or Destruction of Premises; Eminent Domain

(A) In the event of any damage or destruction to the Airport, by reason of fire or other casualty, Licensor will give immediate notice thereof to Licensee. Licensor may, at its option, terminate this License by giving written notice to Licensee, or may provide another location on the Airport for _____ Licensor to conduct its activities.

If (i) the damage or destruction is not total or does not constitute a major injury to the Airport, or (ii) if Licensor does not elect to terminate this License as provided above, then Licensor shall make such repairs or restoration to the Airport to permit Licensee's activities to be conducted. There shall be no abatement of rent following any damage or destruction to the Airport or other interference with Licensee's ability to use and enjoy the Airport, but Licensee shall receive a credit against the fee payments next falling due for all proceeds of rent insurance paid to Licensor.

(B) If: (i) the entire Airport shall be taken by condemnation or other eminent domain proceedings, or (ii) a substantial portion of the Airport shall be taken by such proceedings so that the remaining portion shall be unsuitable for continued use by Licensee in its business, then this License shall terminate as of the date which is the earlier to occur of the date of transfer of possession or transfer of

title to the condemning authority. Licensee shall have the right to claim from the condemning authority, not from Licensors, such compensation as may be separately awarded or recoverable by Licensee in Licensee's own right on account of any cost or loss to which Licensee might be put in relocating its business or in removing Licensee's personality.

19. Default by Licensee. Remedies of Licensors

(A) Subject to the provisions of Subsection (J) below, in the event Licensee shall fail to pay when due any charges or fees herein reserved, or any other sum required to be paid by Licensee under this License, or default in the performance of or compliance with any of the terms, covenants, conditions or provisions of this License, or if Licensee vacates, abandons or deserts the Airport, or if Licensee shall be adjudicated as bankrupt, or shall make an assignment for the benefit of creditors or shall file a bill in equity or otherwise initiate proceedings for the appointment of a receiver of its assets, or shall file any proceedings in bankruptcy or for reorganization, adjustment, composition or an arrangement under any Federal or state law, or if any proceedings in bankruptcy or a petition seeking reorganization, arrangement, adjustment or composition or proceedings for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) shall be instituted with respect to Licensee under any state or Federal law, or if the assets of Licensee are attached or levied under execution or other legal process, or if Licensee fails to pay its debts generally as they become due, or if, Licensee admits in writing its inability to pay its debts as they mature, then and in addition to any other rights or remedies Licensors may have under this License or at law or in equity, Licensors, at Licensors's sole option, shall have the following rights:

(1) to accelerate the whole or any part of the fee for the entire unexpired balance of the Term of this License, as well as all other charges, payments, costs and expenses herein agreed to be paid by Licensee, and any fees or other charges, payments, costs and expenses if so accelerated shall, in addition to any and all installments of fees already due and payable and in arrears, and/or any charge or payment herein reserved, included or agreed to be treated or collected as fees and/or any other charge,

expense or cost herein agreed to be paid by Licensee which may be due and payable and in arrears, be deemed due and payable as if, by the terms and provisions of this License, such accelerated fees and other charges, payments, costs and expenses were on that date payable in advance;

(2) to terminate this Licensee and the Term hereby created without any right on the part of Licensee to waive the forfeiture by payment of any sum due or by other performance of any condition, term or covenant broken, but Licensee shall remain liable as herein provided; or

(3) whether or not this License has been terminated as herein provided, Licensor shall have the right to remove all persons and property from the Airport or any part thereof by force, summary proceedings, ejectment or otherwise. Licensor shall be under no liability for or by reason of any such repossession or removal. At any time or from time to time whether or not this License shall have been terminated, Licensor may (but shall be under no obligation to) reissue the License for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions (which may include various accommodations) and for such uses as Licensor, in its absolute discretion, may determine, and Licensor may collect and receive any fees payable by reason of such reissuance. Licensor may collect and receive any fees payable by reason of such reissuance. Licensor shall not be required to exercise any care of diligence with respect to such reissuance or to the mitigation of damages. No expiration or termination of this License, by operation of law or otherwise, and no reissuance of the License or any part thereof pursuant to this Section shall relieve Licensee of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reissuance;

(B) In the event of any expiration or termination of this License or removal from the Airport by reason of default, and if Licensor has not elected to accelerate fees pursuant to this Section, Licensee shall pay to Licensor the fees and other required sums to be paid by Licensee to and including the date of such expiration, termination or removal and, thereafter, Licensee shall, until the end of what would have been the expiration of the Term in the absence of such expiration, termination or removal, and whether or not the License or any part thereof shall have been reissued, be liable to Licensor for, and shall pay to Licensor, as current damages, the fees and other sums which would be payable under this License by

Licensee in the absence of such expiration, termination or removal, less the net proceeds, if any, of any reissuance (including, without limitation, all related removal costs, brokerage commissions, legal expenses, attorneys' fees, employees' expenses, alteration costs and expenses or preparation for such reissuance). Licensee shall pay such current damages on the days on which the fees would have been payable under this License in the absence of such expiration, termination or removal, and Licensor shall be entitled to recover the same from Licensee on each such day.

(C) If a default shall occur with respect to the payment of the fees herein reserved or in the payment of any other sums due hereunder by Licensee, Licensee hereby authorizes and empowers and Prothonotary or attorney of any court of record to appear for Licensee in any and all actions which may be brought for said fees and/or said other sums; and/or to sign for Licensee an agreement for entering in any court of competent jurisdiction an amicable action or actions, for the recovery of said fees and/or other sums; and in said suits or in said action or actions to confess judgment against Licensee for all or any part of said rental and/or said other sums, including but not limited to the amounts due from Licensee by virtue of acceleration, and for interest and costs, together with an attorney's commission for collection of five percent (5%). Such authority shall not be exhausted by one exercise thereof, but judgment may be confessed as aforesaid from time to time as often as any of said fees and/or other sums shall fall due or be in arrears, and such powers may be exercised as well during the Term or after the expiration of the Term of this License.

(D) Upon the occurrence of any default hereunder, and also when the Term hereby created shall have expired, it shall be lawful for any attorney of any court of record to appear as attorney for Licensee as well as for all persons claiming by, through or under Licensee, and to sign an agreement for entering in any court of competent jurisdiction an action in ejectment against Licensee and all persons claiming by, through or under Licensee and therein confess judgment for the removal of Licensee from the Airport for which this License shall be sufficient warrant.

(E) In any action of ejectment and/or for fees and/or other sums brought hereon, Licensor shall first cause to be filed in such action an affidavit made by Licensor or someone acting for Licensor, setting forth the facts necessary to authorize the entry of judgment, of which acts such affidavit

shall be prima facie evidence, and if a true copy of this License (and of the truth of the copy such affidavit shall be sufficient evidence) shall be filed in such suit, action or actions, it shall not be necessary to file the original as a warrant of attorney, and rule of court, custom or practice to the contrary notwithstanding.

(F) No right or remedy herein conferred upon or reserved to Licensor is intended to be exclusive of any other right or remedy herein or by law provided but each shall be cumulative and concurrent and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute or ordinance. The exercise of any one or more of such remedies shall not preclude the exercise by Licensor, at the same or different times, of any other remedies for the same default or any other default. No termination of this License or removal of Licensee from the Airport shall deprive Licensor of any remedies or actions against Licensee for fees, charges or for damages for the breach of any covenant or condition herein contained, nor shall the bringing of any such action for fees, charges or breach of covenant or condition, nor the resort to any other remedy or right for the recovery of fees, charges or demands for such breach be construed as a waiver or release of the right to insist upon the forfeiture and to obtain possession. No removal of Licensee from the Airport or reissuance of the License shall be construed as an election on the part of Licensor to terminate this License unless written notice of such intention be given by Licensor to Licensee. The failure of Licensor to insist upon the strict and/or prompt performance of the terms, agreements, covenants and conditions of this License or any of them, and/or the acceptance of such performance thereafter shall not constitute or be construed as a waiver of Licensor's right to thereafter enforce the same strictly according to the terms of this License in the event of a continuing or subsequent default.

(G) If Licensee fails to perform any covenant or observe any condition to be performed or observed by Licensee hereunder or acts in violation of any covenant or condition hereof, and thereafter, a default occurs, Licensor may, but shall not be required to, on behalf of Licensee, perform such covenant and/or take such steps, as may be necessary or appropriate to meet the requirement of any such covenant or condition, and all costs and expenses incurred by Licensor in so doing, including reasonable legal fees, shall be paid by Licensee to Licensor upon demand, as additional fees. Licensor's proceeding under the rights reserved to Licensor under this subsection shall not in any way prejudice or waive any

rights as Licensor might otherwise have against Licensee by reason of Licensee's default.

(H) Licensee shall pay upon demand all Licensor's costs, charges and expenses, including the fees of counsel, agents and others retained by Licensor (or, if Licensor utilizes its own employees for such services, the amount that Licensor would have paid had it engaged the services of outside counsel or others) incurred by Licensor in any litigation, negotiation or transaction in which Licensee causes Licensor to become involved or concerned.

(I) To secure all of its obligations under the License, Licensee hereby grants to Licensor a first priority security interest in the personal property and all equipment and trade fixtures necessary, useful or desirable in connection with Licensee's activities on the Airport, including without limitation all fixtures, equipment, machinery, furnishings, inventory, goods, appliances and other property of every kind and nature whatsoever, other than that which is owned by a sublicensee (the "Collateral").

Licensee shall, at its own cost and expense, execute, deliver and file any financing statements, continuation statements and other documents Licensor may reasonably require from time to time to perfect and maintain in favor of the Licensor a first priority security interest in the Collateral under the Uniform Commercial Code as in effect in Pennsylvania. Without limiting the generality of any of the foregoing, Licensee irrevocably appoints Licensor attorney-in-fact for Licensee, with the authority after a default to execute, deliver and file any of the documents referred to above for and on behalf of Licensor.

From and after the occurrence of any default hereunder, subject to the provisions of Subsection (J) below, Licensor shall have all of the remedies of a secured party under the Uniform Commercial Code as in effect in Pennsylvania with respect to all Collateral, including without limitation the right and power to own and use the Collateral in connection with the operation of its activities or otherwise, to sell or otherwise dispose of the Collateral or any part thereof.

(J) Notwithstanding anything hereinabove stated, Licensor agrees that Licensee shall not be in default hereunder, and Licensor will not exercise any right or remedy provided for in this License or allowed by law because of any default, unless Licensee shall have failed to pay, within a period of ten (10) calendar days after the due date, the sum or sums due if the potential default consists of the failure to pay money, or if the potential default consists of something other than the failure to pay money, Licensee shall

have failed, within fifteen (15) calendar days after the giving by Licensor of notice of such potential default to Licensee, to commence to correct such potential default and thereafter to actively and diligently in good faith proceed with and continue the correction of the potential default and to correct the same within no more than sixty (60) calendar days after such notice; provided, however, that no such notice from Licensor shall be required nor shall Licensor be required to allow any part of the said grace period (a) if Licensee shall have temporarily or permanently ceased operating and using the Airport to the extent and in the manner required by this License, or (b) Licensee shall have filed a petition in bankruptcy or for reorganization or a bill in equity or otherwise initiated proceedings for the appointment of a receiver of its assets, or if a receiver or trustee is appointed for Licensee, or Licensee makes an assignment for the benefit of creditors or if the assets of Licensee are attached or levied under execution on a judgment.

20. Licensor

The term "Licensor" as used in this License shall refer to the owner of Licensor's estate in the Airport, only for the time being. Licensor shall be and is hereby relieved of all covenants and obligations of Licensor hereunder, if any, accruing after the date of transfer of Licensor's estate in the Airport, and it shall be construed without further agreement between the parties that the transferee has assumed and agreed to carry out any and all covenants and obligations of Licensor hereunder, if any, during such time as said transferee shall own or hold Licensor's estate or interest in the Airport. The provisions of this Section shall apply to each successive transfer of Licensor's interest or estate in the Airport. The liability of any Licensor under this License shall be and hereby is limited to its interest in the Airport and no other assets of Licensor shall be affected by reason of any liability which Licensor may have to Licensee or to any other person by reason of the execution of this License, or acquisition of Licensor's interest in the Airport or this License.

21. Miscellaneous

(A) Nothing contained in this License shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Licensor and Licensee, it being expressly understood and agreed that neither the method or computation of rent nor any other provisions contained in this License nor any act of the parties

hereto shall be deemed to create any relationship between Licensor and Licensee other than the relationship of Licensor and Licensee.

(B) The word "Licensee" whenever used herein shall be construed to mean Licensees or any one or more of them in all cases where there is more than one Licensee or any one or more of them in all cases where there is more than one Licensee and the necessary grammatical changes shall in all cases be assumed as though in each case fully expressed. In all cases where there is more than one Licensee, the liability of each shall be joint and several. If the Licensee is a general partnership, the liability of the partners shall be joint and several.

(C) Licensee agrees at any time and from time to time, upon not less than thirty (30) days prior written notice by Licensor, Licensee shall execute, acknowledge and deliver to Licensor, or to any existing or prospective mortgagee, lessee, subtenant, purchaser from or assignee of Licensor, a statement in writing certifying that this License is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), and stating whether or not Licensee has knowledge of any existing default by Licensor or of any notice of default served by Licensee upon Licensor and stating the nature of any such defaults, it being intended that any such statement delivered pursuant to this Article may be relied upon by any existing or prospective mortgagee, licensee, or assignee of Licensor.

22. Waiver

No failure by Licensor or Licensee to insist upon the strict performance by the other of any agreement, term, condition or covenant hereof or to exercise any right of remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such agreement, term, condition, or covenant. No waiver of any breach shall affect or alter this License, but each and every agreement, term, condition and covenant hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

23. Time of the Essence

It is expressly understood and agreed that with respect to all responsibilities, covenants and conditions of Licensee herein, time is of the essence of this License. All payments are due by 4:00 P.M.

on the due date. Any payment that is submitted by Licensee to cure a financial default must be received no later than 4:00 P.M. on the final day of the cure period or such payment will not be accepted by Licenser as a cure of the default.

24. Invalid Provisions

In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either Licenser or Licensee in their respective rights and obligations contained in the valid covenants, conditions and provisions of this License.

25. Binding Nature of License

All of the terms, covenants and conditions of this License shall inure to the benefit of any be binding upon the parties hereto, their successors and assigns.

26. License Made in Pennsylvania

This License has been made in and shall be governed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

27. Entire Agreement

It is expressly understood and agreed by and between the parties hereto that this License sets forth all the promises, licenses, conditions and understandings between Licenser and Licensee and there are no promises, licenses, conditions or understandings, either oral or written, between them other than as are herein set forth. It is further understood and agreed that, except as herein otherwise provided, no subsequent alterations, amendment, change or addition to the License shall be binding upon Licenser or Licensee unless reduced to writing and signed by them.

Box 62A
Rio 1061

PHILADELPHIA INTERNATIONAL AIRPORT
AIRLINE OPERATING LICENSE AGREEMENT

November 1, 1993

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PHILADELPHIA INTERNATIONAL AIRPORT

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THIS AIRLINE OPERATING LICENSE AGREEMENT, hereinafter called "Agreement", made and entered into this _____ day of _____, 19__, by and between the CITY OF PHILADELPHIA, a City of the first class, acting through its Department of Commerce, Division of Aviation, hereinafter called "City" and EASTWIND CAPITAL PARTNERS, INC., a corporation organized and existing under the laws of the State of Delaware and authorized to do business in the Commonwealth of Pennsylvania, hereinafter called "Airline";

WITNESSETH:

WHEREAS, City is the owner of Philadelphia International Airport located in Philadelphia and Delaware Counties, in the Commonwealth of Pennsylvania, hereinafter called the "Airport", and

WHEREAS, Airline is engaged in the business of commercial air transportation of passengers, baggage, cargo and mail as an air carrier and is authorized by the United States government to engage in such business; and

WHEREAS, Airline desires to obtain and City is willing to grant certain rights and privileges with respect to the Airport, upon the terms and conditions hereinafter provided;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and, intending to be legally bound hereby, City and Airline hereby agree as follows:

ARTICLE I - RIGHTS AND PRIVILEGES

Section 101. Use of Airport

City, as owner and operator of the Airport, shall and does hereby grant unto Airline, and Airline does hereby take from City certain rights, licenses, and privileges on and about the Airport as follows:

- A. The right to operate an air transportation system for the carriage of passengers, baggage, cargo and mail, including , but without limiting the generality thereof, courtesy, test, training, inspection, emergency and charter flights.
- B. The right to have aircraft used in the conduct of its air transportation business repaired, maintained, conditioned, serviced, tested, parked and stored on the Airport by those authorized to provide such services on the Airport.
- C. - The right to have aircraft serviced with fuel, oil, greases, lubricants, or other supplies as required by those authorized to provide such services on the Airport.
- D. The right to land, take-off, fly, taxi, tow, park, load and unload aircraft.
- E. Subject to the availability of proper space, the right to install and operate, at airline's expense, airline identification signs. The signs shall be substantially uniform with those of other similarly classified air transportation companies. The number, general type, size, design and location of all such signs shall be at the discretion of, and subject to the prior written approval of City.
- F. The right to hire and/or train personnel on the Airport.

G. The right to utilize motor vehicles or such other manner of conveyance as may be required in the operation of an air transportation system.

H. The right to use the Airport for any and all purposes in connection with and incidental to the operation of an air transportation system, including, but without limiting the generality hereof, the handling, ticketing, billing and manifesting of passengers, baggage, cargo, and mail, and the installation, maintenance and operation of radio and other communications equipment and facilities, and meteorological and navigational equipment and facilities. In addition, Airline or any wholly-owned subsidiary of Airline, may operate passenger clubs and lounge rooms within its leased premises.

I. The right to install, maintain and operate, without cost to City, a reasonable amount of suitable aircraft air conditioning equipment, auxiliary power, start-up and other miscellaneous support equipment.

J. The right to purchase services or otherwise obtain personal property of any nature on the Airport from those authorized to provide such services or supplies on the Airport.

K. The rights and privileges hereinabove granted are subject to the limitations of law, leases and concession contracts either presently existing or as may be approved by City in the future. Nothing contained herein shall be construed as authorizing Airline to conduct a separate business, or businesses, but shall permit Airline to perform or to have performed such functions only as are incidental to the operation of its own transportation system. It is understood and agreed that City is the primary provider of Airport concessions and concessionaires, including, but not limited to, such services as ground handling and fueling. As primary supplier City shall not be deprived of concession revenues by Airline's purchase of supplies and services from nonconcessionaires. It is the intent of the parties, therefore, that to the extent that Airline or its suppliers compete with the concessionaires of City, City shall not be deprived of concession revenue by such competition and nothing in this Agreement shall prohibit City from charging Airline or its suppliers the standard rates charged to concessionaires in connection with items normally sold by concessionaire.

Airline in recognition of the principles stated herein further agrees not to divert any concession trade from the Airport to non-concessionaires for the purpose of avoiding Airport fees and charges. City, in its sole discretion, shall make any determination of such diversion.

L. The scope of this Agreement is limited to the rights, licenses and privileges stated above. It does not provide for the exclusive use or occupation of space and facilities for the accommodation of passengers, cargo or equipment which are normally covered by lease.

Section 102. Access

Subject to the provisions hereof, City hereby grants to Airline the following rights and privileges of ingress and egress with respect to the Airport:

A. For Airline, and its authorized agents, employees, contractors, subcontractors, suppliers of materials and furnishers of service: to the public areas of the Airport and to those areas and facilities designated herein for use by Airline. These rights shall extend to aircraft, vehicles, machinery and equipment used by, or for Airline in its air transportation business.

B. The ingress and egress provided for herein shall not be used, or enjoyed by or extended to any person, or vehicle engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized by City.

Section 103. Parking

City shall provide and maintain or cause to be provided and maintained a vehicle parking facility for the use of Airport employees, including Airline's employees. City reserves the right to impose or have imposed parking fees for employees and such others as may reasonably be expected to use the parking facilities.

ARTICLE II - TERM

Section 201. Term

Airline shall have and hold the rights, licenses and privileges set forth herein for a period commencing on November 1, 1993 through October 31, 1994. Thereafter the term will automatically be extended from year to year. However, after October 31, 1994, this Agreement may be terminated as of the end of any annual extension period upon thirty (30) days prior written notice to such effect.

ARTICLE III - FEES AND CHARGES

Section 301. Fees

Airline shall pay to City during the Term hereof, without demand or notice, other than required invoices, and without deduction or set off, for the rights, licenses and privileges granted hereunder, the following fees:

A. A monthly Landing Fee shall be charged based upon Airline's aircraft arrivals at the Airport during said month. The monthly Landing Fee shall be calculated by multiplying the maximum allowable gross landing weight for each arriving aircraft by the Landing Fee rate then in effect. The current Landing Fee rate is \$1.31 per thousand pounds of the aircraft's maximum allowable gross landing weight. Flights diverted to the Airport because of mechanical, meteorological, or other causes shall be considered the same as revenue flights, except that if a revenue flight is required to return to the Airport because of such mechanical, meteorological, or other precautionary reasons, no Landing Fee shall be charged. Training flights shall be excluded from Landing Fees except to the extent that the number of training flights operated by Airline during any month exceeds five (5) percent of the total number of aircraft arrivals operated by Airline during such month.

B. It is understood and agreed that Airline's billing for Landing Fees, shall in no event be less than Seven Thousand Five Hundred Dollars (\$7,500.00) per month for a total annual minimum of Ninety Thousand Dollars (\$90,000.00) per year.

Section 302. Other Charges

A. Airline shall pay all miscellaneous charges whether imposed pursuant to this Agreement, federal, state or local law, regulation or directive, hereinafter called "charges", when due and payable.

B. Airline shall be subject to its proportionate share of the costs incurred in complying with the security requirements of Federal Aviation Regulation Part 107.

C. Nothing contained herein shall prohibit City from enacting an Airport user charge, a passenger facility charge or charges of similar nature, such as, passenger enplanement/deplanement charges if such charges are declared legal in the United States. Nothing herein shall be construed as a consent by Airline that such charges are lawful or construed as a waiver of its right to attack such charges in an appropriate forum.

Section 303. Adjustments to Fees, Rates and Charges

A. The minimum Landing Fees set forth in this Agreement may be examined and adjusted periodically and uniformly applied to other similarly classified airlines.

B. The Landing Fee rate as well as any and all of the charges imposed upon Airline by the City will be subject to change from time to time. Such adjustments shall be to levels comparable to those charged to similarly classified airlines at the Airport. Said adjustments shall become effective immediately upon notification by City.

ARTICLE IV - REPORTS, PAYMENTS, RECORDS

Section 401. Reports and Payments

A. At the close of each calendar month, Airline shall calculate the Landing Fee due for that month. Said fees shall be due and payable for each month no later than the 20th day of the following month and they shall be submitted along with:

(1) A monthly Schedule Data Report (Form 72-35) showing the number of flight arrivals operated by Airline during the previous month including the type, model and make of aircraft. Aircraft Used in Philadelphia Service (Form 72-109) showing the certified maximum gross landing weight of each aircraft, shall be submitted prior to commencement of service and annually thereafter and whenever changes in the aircraft occur;

(2) A Traffic Activity Summary (Form 72-36) indicating all passenger, mail, and cargo activity for the previous month;

(3) A Self-Invoicing form and a check in the full amount of the Landing Fees for said month, or a check in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) whichever is greater. The monthly minimum provided for herein shall be due and payable monthly but shall be calculated on an annual basis. Within sixty (60) days after the end of each contract year, and/or within sixty (60) days of the expiration or termination of this Agreement, City will prepare and submit to Airline a statement showing the monthly fees paid and the annual fees due. The annual fees due shall be the greater of either the annual minimum of Ninety Thousand Dollars (\$90,000.00) or charges based on Airline's actual annual activity. If the total of the monthly fees paid by Airline during said period exceed the annual fees due, then such overpayment shall be credited to Airline's account. Fees for periods of less than one year will be pro-rated accordingly.

B. The acceptance by City of any such payment shall not preclude City from questioning the accuracy of Airline's report upon which the fees are based. City, as provided for in this Agreement shall have the right, upon reasonable notice, to examine that portion of the books and records of Airline relevant for the purpose of ascertaining that the amounts paid or to be paid to City are correct.

C. In the event that Airline fails to transmit to City the payment and the supporting data for Landing Fees incurred by Airline during said month or to certify the number of enplaned and deplaned passengers for the said month, City shall compute such fees based upon data available as though the number of landings and passengers statistics were the same as during the highest month in the immediately preceding fiscal year or in the current fiscal year, whichever is higher. After receipt of the required, but delinquent payment and report from Airline, City shall recalculate the fees for the month in question based upon the report. If the actual fees are higher than those fees invoiced to Airline, the deficiencies shall be included by Airline along with the next monthly payment. If the actual fees are less than those fees invoiced to Airline, the excess shall be taken as a credit by Airline as part of the next monthly payment for such fees.

D. Airline will submit all reports and fees due hereunder to the office of the Division of Aviation, at the address set forth in the section of this Agreement entitled "Notices".

Section 402. Records

A. Airline shall keep full and complete books of account and other records relating to the provisions and requirements of this Agreement and in so doing shall comply with the minimum procedural requirements prescribed by City. City, through its duly authorized representative, shall have the right to inspect and audit Airline's books of account and other such records for a period of three (3) years and upon City's request shall make such records available to City for audit at the Airport or at some other mutually agreed upon location. Should adequate records not be made available by Airline at the appointed location, then the additional cost of said audit including all reasonable travel, food, and lodging expenses incurred by City shall at City's discretion be borne by Airline.

B. Airline shall at such intervals as City may prescribe submit to City a written statement certified by an independent certified public accountant stating that, in the accountant's opinion, payment for all rentals, fees and charges due hereunder were made in accordance with the terms of this Agreement.

ARTICLE V - INSURANCE, SURETY

Section 501. Insurance

A. Airline will maintain a policy or policies of liability insurance to insure itself against liability for injury or damage, to persons and property. The said policies will be in the minimum amounts set forth below or such greater amounts as the Director of Aviation shall, from time to time, require or approve:

1. Aircraft Liability - \$42 Million Single Limit, each occurrence
(Including Bodily Injury & Property Damage)
2. Airport Liability - \$7.5 Million Single Limit, each occurrence
(Including Bodily Injury & Property Damage)
3. Automotive Liability - \$5 Million Single Limit, each occurrence
(Including Bodily Injury & Property Damage)
4. Workers Compensation or qualified self-insurance as approved by the Commonwealth of Pennsylvania and employer's liability insurance as may be required under applicable laws covering persons employed in connection with Airline's Activities at the Airport.

B. With respect to the insurance listed above the following shall apply:

1. All of the foregoing policies shall be provided on an "occurrence" basis and not on a "claims made" basis.
2. The City of Philadelphia, its officers, employees and agents, shall be named as additional insureds on all policies required hereunder except Workers' Compensation and Employers' Liability. All such policies shall include an endorsement stating that the coverage afforded these parties as additional insureds will be primary to any other coverage available to them.
3. Certificates of insurance evidencing the required coverage shall be submitted to the Division of Aviation at the address set forth in the Section hereof entitled "Notices" and the City's Risk Manager (1600 Arch Street, 1 Mezzanine, Philadelphia, PA 19103) at least ten (10) days before commencement of the term. Airline's failure to furnish certificates of insurance as required herein shall be considered as a default with a cure period of five (5) days after receipt of written notice thereof. Thereafter, and without further notice to Airline, City may exercise any and all remedies set forth in this Agreement and at law or equity.
4. Airline shall furnish copies of the original policies of all insurance required under this Agreement at any time within ten (10) days after written request by City.

5. All insurance policies shall provide for at least sixty (60) days prior written notice to be given to City in the event coverage is materially changed, cancelled or not renewed (with language requiring that the insurer only endeavor to give notice and releasing the insurer from any liability or obligation for failure to give such notice deleted). At least ten (10) days prior to the expiration of each policy, Airline shall deliver to City a certificate or certificates evidencing a replacement policy to become effective immediately upon the termination of the previous policy.

6. From time to time during the term of the contract and in any event not more frequently than every year, the City may adjust the amounts, types and deductibles of insurance coverage required to reflect changed circumstances affecting insurance requirements.

7. If Airline fails to cause such insurance to be maintained, City shall not be limited in the proof of any damages which City may claim against Airline or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but City shall also be entitled to recover as damages, expenses of suit and costs, including without limitation, reasonable cancellation fees, suffered or incurred during any period when Airline shall have failed or neglected to provide insurance as required herein.

8. The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in this Agreement by Airline to City or to limit City's liability under this Agreement to the limits of the policies of insurance required to be maintained by Airline hereunder.

C. Airline shall not do, or suffer to be done, any matter or thing whereby, or in consequence whereof, the policy or policies of insurance shall become voided or suspended, or which increase the risk or hazard of fires in or on the Airport unless, in the latter case only, such increased risk or hazard is adequately insured in City's sole discretion and the use creating such increased risk or hazard is permitted under Article 1.

D. Airline shall not permit separate insurance to be carried which relates to the Airport and is concurrent in form or contributing, in the event of loss, with that required to be maintained under this Agreement, or increase or permit to be increased the amounts of any then existing insurance relating to the Airport by securing an additional policy or additional policies, without including the applicable parties required in this Section as insured parties or additional insureds. Airline immediately shall notify City whenever such separate insurance is obtained, and deliver to City certificates evidencing such policies and, upon request, certified copies or duplicate originals of the same (as required in this Section and in accordance with the procedures set forth herein).

E. Airline hereby releases City, its agents and employees, to the extent of Airline's coverage under the insurance policies which are required to be maintained by Airline under this Agreement (or more, if greater insurance coverage is actually carried or, if Airline breaches its obligation to maintain

insurances required by this Agreement, to the extent of coverage which Airline would have had in the absence of such breach) and the deductible thereunder, from any and all liability, for any loss or damage which may be inflicted upon the Airport, notwithstanding that such loss or damage shall have arisen out of the negligent or other tortious act or omission of City, its agents or employees. Airline shall cause its insurers to include in their respective policies a clause to the effect that such release shall not affect the said policy or the right of the insured to recover thereunder.

Section 502. Surety

Airline will give security, on or before execution of this Agreement to insure the faithful performance of its duties and obligations hereunder, in the form of a performance bond in an amount designated from time to time by the City. The bond shall be written by a surety company licensed to do business in the Commonwealth of Pennsylvania. The bond shall be on the City's bond forms. Upon the occurrence of a default (as defined in the License General Terms and Conditions attached hereto), City shall have the right to exercise all rights and remedies under the bond, in addition to all other rights and remedies available to City under this Agreement or in law or equity.

ARTICLE VI - AIRPORT SECURITY PROGRAM

Section 601. Airport Security Program

A. In accordance with regulations issued by the U.S. Department of Transportation, Federal Aviation Administration ("FAA") and found at 14 Code of Federal Regulations ("CFR") Part 107, airports are required to have FAA-approved security programs. These programs are designed to control access to certain areas of airports and to control the movement of people and vehicles within those areas.

B. City has an FAA-approved security program for the Airport. Airline is required, at all times during the Term, to comply with City's security program for the Airport.

C. Airline shall indemnify, defend and hold City harmless against all fines and charges and any other punitive measures in connection with breaches of security on the Airport or any other violations of Airport security resulting directly or indirectly from Airline's activities on the Airport.

ARTICLE VII - NOTICES

Section 701. Notices

Notices provided for herein shall be deemed given if sent by certified or registered mail or by recognized overnight delivery service, postage or charges prepaid, for City addressed to: Director of Aviation, Department of Commerce, Division of Aviation, Airport Business Center, 3751 Island Avenue, Philadelphia, Pennsylvania 19153, with a copy to the City Solicitor, City of Philadelphia Law Department, 1600 Arch Street, 8th Floor, Philadelphia, Pennsylvania 19103, and for Airline addressed to: Eastwind Capital Partners, Inc., Scott Plaza Two, Suite 645, Philadelphia, PA 19113-1518 or to such other respective addresses as the parties may, from time to time, designate to each other in writing in the manner set forth above.

ARTICLE VIII - GENERAL TERMS AND CONDITIONS

Section 801. General Terms and Conditions

This Agreement is subject to the "License General Terms and Conditions (No Premises)", which are attached hereto as Attachment "1" and which hereby are incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF PHILADELPHIA:

EASTWIND CAPITAL PARTNERS, INC.:

By: _____
Deputy Director of Commerce

By: _____
President/Vice President

Attest: _____
Secretary/Treasurer

Approved as to Form
JUDITH E. HARRIS, City Solicitor

Per: _____
City Solicitor

CORPORATE SEAL:

ATTACHMENT "1"

LICENSE GENERAL TERMS AND CONDITIONS (NO PREMISES)

1. Ingress and Egress, Common Areas

(A) Licensor hereby grants to Licensee the right and privilege of ingress and egress to Licensee's area where permitted activities take place ("Activity Area") over the Airport service roads and airfield for Licensee, its employees, contractors and subcontractors, suppliers of goods and materials, furnishers of service, agents, guests, patrons, and invitees.

(B) Licensee shall have the right, in common with others so authorized, to the use of the common areas of the Airport and appurtenances thereto, such as the airfield and parking lots and any additions thereto which may be designated by Licensor for common use together with the facilities, equipment, improvements and services which have been or may hereafter be provided at the Airport for common use, subject, however, to the regulations and practices, and the payment by Licensee of such rates and charges, as may be applicable thereto at the time of such use.

2. Airport Modifications

It is understood and agreed by the parties that major Airport modifications may take place during the term of this License and the parties further agree that in the event Licensor in its sole discretion shall determine that it is necessary or proper in order to facilitate the planning, design or construction of any such modifications Licensor may direct Licensee to vacate and/or relocate any and all Activity Areas and any improvements authorized hereunder and restore the Activity Area to Licensor's satisfaction. In the event Licensor shall direct such vacating, removal, relocation, or restoration Licensee shall immediately proceed to perform such work at its sole cost and expense. It is understood and agreed that there shall be no liability by Licensor to Licensee for any damages or loss of profits or cost by reason of such vacating, removal or relocation of Activity Areas or any improvements or restoration of Activity Areas.

3. Payment of Rental Fees and Charges

(A) All rental and fees and charges shall be due and payable on the due dates set forth elsewhere in this License. Rental due for periods of less than one month shall be prorated on a daily basis based on a calendar year of 365 days.

(B) Licensee shall pay any and all charges incurred, not later than thirty (30) days after mailing or transmittal of an invoice by Licensor to Licensee.

(C) All payments due hereunder shall be made payable to the City of Philadelphia and mailed to the Licensor at the address set forth in the section of this License entitled "Notices". Payments made by check shall be received by the Licensor subject to collection. Licensee agrees to pay on demand by Licensor any charges incurred by Licensor for collection.

(D) If Licensee fails to make any payments within ten (10) days of the due date, Licensor may, in addition to other rights and remedies under this License or at law or equity, impose an interest charge computed from the due date at the pro-rated rate of one and one-half percent (1 1/2%) per month on all late amounts due until fully paid.

4. Improvements, Trade Fixtures

(A) Licensee shall not make or permit any alterations, additions or improvements (hereinafter collectively called "Improvements") to any Activity Area without Licensor's prior written consent, which may be granted or withheld in Licensor's sole discretion. Licensee shall construct all permitted Improvements in accordance with such plans and specifications which have the prior written approval of Licensor, which may be granted or withheld in Licensor's sole discretion. Any Improvements shall become fixtures annexed to the realty and title thereto shall vest in Licensor upon the expiration or earlier termination of this License. Licensee shall not remove such Improvements from any Activity Area upon the surrender thereof; provided, however, that Licensor may require Licensee to remove them and return the Activity Area to its original condition upon the surrender thereof, all to the satisfaction of Licensor. All of the permitted improvements shall be completed with due diligence and at Licensee's sole expense.

(B) Plans and specifications for all proposed Trade Fixtures must be submitted to Licensor, for Licensor's written approval with respect to both the items and the method of installation, prior to

installation, which may be granted or withheld in Licensor's sole discretion. All Trade Fixtures shall be in accordance with the highest current standards and practices of the trade and shall, in the opinion of Licensor, be safe, fire-resistant and suitable in appearance, quality and quantity.

5. Maintenance and Repair

(A) Licensee shall, at its sole cost and expense, assume complete maintenance responsibility for all Activity Areas and any Improvements thereon, which shall include, but not be limited to general janitorial service. Licensee shall provide a complete and proper arrangement for the frequent and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Licensee shall provide and use suitable covered metal receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons or other similar items on or about the Airport is forbidden.

(B) In addition to Licensee's obligations under the preceding paragraph, if a notice of violation is issued by any governmental authority relating to the Activity Area, Licensee shall at its own cost and expense, make all repairs, alterations and renovations and take such other action with respect to the Activity Area as may be necessary to comply with such notices of violation.

(C) Licensee shall keep all equipment, fixtures and furnishings of any nature used in connection with its operation, whether owned by Licensor or by Licensee, in good condition, order and repair at all times. Should damage occur, repair and/or replacement shall be made by Licensee at the election and to the satisfaction of Licensor. All equipment, fixtures and furnishings of any nature which in the opinion of Licensor are worn or damaged so as not to present a good appearance or become incapable of being kept in good working order must be removed and replaced by Licensee upon receipt of written notice to that effect from Licensor. All maintenance, repair and replacement of equipment, fixtures and furnishings shall be at Licensee's sole cost and expense.

(D) Licensor or its authorized agents may, at any reasonable time, without notice, enter upon the Activity Area to determine if reasonably satisfactory maintenance is being performed. If it is determined that said maintenance is not reasonably satisfactory, Licensor shall so notify Licensee in writing. If said maintenance is not commenced by Licensee within thirty (30) days after receipt of written

notice and pursued with due diligence, in addition to its other rights, Licensor, or its agents shall have the rights, but not the obligation, to perform the maintenance therefor. The cost for the performance of such maintenance by Licensor shall be borne by Licensee and shall be due upon demand.

6. Signs

Licensee shall not, without the prior written approval of Licensor, which may be granted or withheld by Licensor in its sole discretion, erect, maintain or display any signs in the Activity Area or at any other location on the Airport. In addition to Licensor's approval, Licensee shall at its sole cost and expense obtain the approval of all other local, state and federal agencies as may be required.

7. Inspection and Access

(A) Licensor may enter upon any Activity Area at any reasonable time for any purpose necessary, incidental to, or connected with any matter related to Airport modifications or as may be required in the operations, maintenance, or development of the Airport, or to determine whether Licensee has complied or is complying with the terms and conditions of this License.

(B) Licensor reserves to itself an irrevocable right and easement to install, maintain, repair, replace, or remove and replace water or sewer pipes, electrical lines, gas pipes, or any other utilities or services on the Activity Area, and the Improvements thereon, along with access to the Activity Area at all reasonable times in order to accomplish any actions permitted by such rights and easement, provided however Licensor shall take reasonable precaution to avoid the disruption of Licensee's authorized business activities.

8. Title - Redelivery of Premises

(A) Title to all of Licensee's trade equipment, materials, supplies and furnishings or other personal property shall at all times during the Term of this License remain in Licensee. Subject to Licensor's rights as set forth in Section 19 hereof, upon expiration or earlier termination of this License all such items shall be removed from the Activity Area, and the Activity Area and any Improvements, upon surrender thereof, shall be restored to the satisfaction of the Licensor, normal wear and tear excepted. Said removal and restoration shall be at the sole cost and expense of Licensee. In the event that all of Licensee's property is not removed and the Activity Area with any Improvements restored to Licensor's

satisfaction, immediately upon expiration or termination of this License, then Licensor, in addition to its other rights, may, but shall not be obligated to, do so at Licensee's expense.

(B) Licensee shall, upon expiration or earlier termination of this License, cease all activities and vacate the Airport peaceably and quietly.

9. Personnel

Licensee shall appoint a local representative who shall have the authority to make day to day decisions and shall be responsible for coordinating all activities with the Licensor. The name, address and telephone number of the local representative is to be submitted to Licensor immediately, and Licensor is to be notified of any changes related to the local representative.

10. Assignment

(A) Licensee shall not assign, mortgage, pledge or otherwise transfer this License by operation of law or otherwise, without obtaining the prior written consent of Licensor, which may be withheld or granted in Licensor's sole discretion. In the event such assignment is approved by Licensor, such approval shall in way relieve Licensee of any contractual obligations assumed under this License unless Licensor specifically consents thereto, and such approval shall not constitute a waiver of strict future compliance by Licensee with the provisions of this Section.

(B) If Licensee is a corporation (other than a corporation whose stock is traded through a national or regional exchange or over-the-counter), any transaction or series of transactions (including without limitation any dissolution, merger, consolidation or other reorganization of Licensee, or any issuance, sale, gift, transfer or redemption of any capital stock of Licensee, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Licensee, other than by reason of death, shall be deemed to be a transfer of Licensee's interest under this License for the purpose of this Section. If Licensee is a partnership, any transaction or series of transactions (including without limitation any withdrawal or admittance of a partnership or any change in any partners' interest in Licensee, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Licensee, other than by reason of death, shall be deemed to be a transfer of Licensee's interest under this License for the purpose of this

Section. The term "control" as used in this Section means the power to directly or indirectly direct or cause the direction of the management or policies of Licensee. If Licensee is a corporation, a change or series of changes in ownership of stock which would result in direct or indirect change in ownership by the stockholders or an affiliated group of stockholders of less than fifty percent (50%) of the outstanding voting stock of Licensee as of the date of the execution and delivery of this License shall be considered a change of control.

11. Compliance with Laws, Regulations

(A) Licensee shall observe and comply with any and all requirements of the constituted public authorities and with all federal, state, or local statutes, ordinances, regulations, and standards applicable to Licensee or its activities on the Airport, including, but not limited to, rules and regulations issued from time to time by Licensor's Division of Aviation and other authorities having jurisdiction over any phase of operation in and about the Airport.

(B) Licensee shall not install, maintain, or operate any coin-operated device or any machine for the vending of food, beverages, tobacco, or merchandise of any other kind unless otherwise expressly authorized to do so in writing by Licensor.

(C) Licensee shall not furnish, maintain, store, or cause or permit to be furnished, maintained or stored, gasoline, fuels, lubricants, or other flammable materials on the Airport without the prior written consent of Licensor, which may be withheld or granted in Licensor's sole discretion.

(D) Licensee shall not engage, and shall not permit others to engage, in operations at any Activity Area which involve the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of "hazardous substances" or "hazardous wastes" as defined in any Federal, state or local environmental law, statute, ordinance, rule or regulation without the prior written consent of Licensor, which may be withheld or granted in Licensor's sole discretion. Licensee shall, at Licensee's own expense, comply with, and cause any and all sublicensees to comply with the Pennsylvania Hazardous Sites Cleanup Act (Act 108), the Comprehensive Environmental Response, Compensation & Liability Act (42 U.S.C. 9601 et seq.), and any and all applicable Federal, state and local environmental laws, statutes and ordinances, and any and all amendments thereto and the rules, regulations and orders promulgated

thereunder. Licensee shall, at Licensee's own expense, make all submissions and provide all information to, and comply with all requirements of, the Pennsylvania Department of Environmental Resources and any other Federal, state or local authority requirement that a cleanup plan be prepared and that a cleanup be undertaken because of any spills or discharges of hazardous substances or wastes caused by Licensee or any sublicensees or resulting from Licensee's operations in or about the Airport which occur during the Term of this License. In such event, Licensee shall, at Licensee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. Without limiting the generality of Section 17 below, Licensee shall indemnify, defend and save harmless Licensor from all fines, suits, procedures, claims and action of any kind arising out of or in any way connected with any spills or discharges of hazardous substances or wastes caused by Licensee or any sublicensees, agent, employee, contractor or invitee, or resulting from Licensee's or any sublicensee's operations in or about the Airport which occur during the Term, and from all fines, suits, procedures, claims and actions of any kind arising out of Licensee's failure to provide all information, make all submissions and take all actions required by any Federal, state or local authority, or arising out of Licensee's failure to cause any sublicensees to do the same. Licensee's obligations and liabilities under this Subsection (D) shall (1) continue so long as Licensor remains responsible for any spills or discharges of hazardous substances wastes in or about the Airport which occur during the Term and (2) survive the expiration or sooner termination of this License.

12. Non-Discrimination

(A) Local Requirements

(1) This License is entered into under the terms of the Philadelphia Home Rule Charter and in the exercise of the privileges herein granted, Licensee shall not discriminate nor permit discrimination against any person because of race, color, religion, national origin, sex or ancestry. Without limiting any other provision of this License, Licensee agrees to comply with the Fair Practices Ordinance of the City of Philadelphia (Section 9-1100 of the Philadelphia Code), as amended from time to time.

(2) Licensee covenants and agrees that in accordance with Chapter 17-400 of the Philadelphia Code, payment or reimbursement of membership fees or other expenses associated with

participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment, on the basis of race, color, religion, national origin, ancestry, sex, sexual orientation or physical handicap constitutes a substantial breach of this License entitling Licensor to all rights and remedies provided in this License or otherwise available in law or equity.

(a) Licensee agrees to include the immediately preceding paragraph, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for work to be performed pursuant to this License.

(b) Licensee further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this License entitling Licensor to all rights and remedies provided herein or otherwise available in law or equity.

(B) Federal Requirements

(1) Licensee covenants and agrees that in order to confirm the assurance required by the City of Philadelphia by Title VI of the Civil Rights Act of 1964 and by 49 CFR Part 21 of the regulations governing the U.S. Department of Transportation ("DOT"), as amended, it will not, in its operation and use of the Airport, discriminate nor permit discrimination against any person or group of persons on the grounds of race, color, or national origin in any manner prohibited by 49 CFR Part 21. Noncompliance with this clause will constitute a material breach of this License; therefore in the event of such noncompliance, Licensee hereby authorizes Licensor to take such action as the Federal Government may direct to enforce this covenant, and Licensee also authorizes the Federal Government to take appropriate action to enforce compliance, including the right to seek judicial enforcement.

(2) Licensee covenants and agrees that it will undertake an affirmative action program if required by 14 CFR Part 152, Subpart E, as amended from time to time. Licensee assures that it will require that its covered suborganizations provide assurances to the Licensee that they similarly will

undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

13. Supervening Law Licenses

(A) Nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act or any other statute, ordinance, regulation or policy of any governmental agency having jurisdiction over the Airport and/or the activities that take place at the Airport.

(B) This License shall be subordinate to the provisions of any existing or future agreement between Licensor and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required by the provisions of the Federal Aviation Act of 1958, as amended, or any future act affecting the operation or maintenance of the Airport.

(C) In the event that the Federal Aviation Administration requires, as a condition precedent to the granting of funds for the improvement of the airport, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this License, then Licensee agrees that such changes as may be reasonably required to enable Licensor to obtain said funds shall be permitted.

(D) Licensee shall obtain all necessary approvals and furnish at its own expense all licenses, permits and authorizations necessary for any permitted improvements and the undertaking of all activities described herein.

14. Taxes

(A) Licensee shall pay, before any fine, penalty, interest or cost may be added, all taxes, assessments, governmental fees and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of whatever character that may be levied, assessed or charged upon or with respect to any income received by Licensee from its activities on the Airport, the property, real and personal, occupied, used or owned by Licensee or upon the privileges of Licensee to occupy space at the Airport, or upon Licensee's improvements, fixtures, equipment, or other property thereon. Licensee also shall pay all transfer taxes, if any, due in connection with this License. Also, Licensor will assess and collect from Licensee any applicable Use and Occupancy Tax on behalf of the School District of the City of

Philadelphia. Licensee may contest, in its own name or in the name of Licensor the validity or amount of any tax or charge in lieu of tax it shall hereunder be required to pay to Licensor or to a taxing authority; provided, however, that Licensee shall pay such tax or charge under protest to the taxing authority and indemnify and hold Licensor harmless from all liability and expense arising out of, or for, such contest. Licensee shall not permit a lien or encumbrance to attach to the Premises by reason of any failure of tax or charge payment.

(B) Licensee's failure to comply with applicable provisions of Section 14(A) above shall be a default under this License.

15. Holding Over

If Licensee shall, with the consent of Licensor, hold over after the expiration of the Term hereof, such tenancy shall be deemed a month-to-month tenancy, which may be terminated upon ten (10) days written notice. During such tenancy, Licensee agrees to be bound by all the terms and conditions herein. If Licensor shall not give consent to such hold over by Licensee, such holdover shall constitute a default under this License, Licensor shall be entitled to all of its remedies hereunder and in law or equity, and until Licensee has vacated the Airport, it agrees to pay to Licensor fees and charges at double the rate payable by Licensee at the expiration of the Term of this License.

16. Liens

Licensee shall not permit a mechanic's lien for any labor or materials to attach to the whole or any part of the Airport or any Improvements constructed by Licensee and Licensee hereby agrees that if a mechanic's lien is filed upon all or any portion of the Airport or the Improvements, Licensee shall protect and save harmless the Licensor against any loss, liability or expense whatsoever, by reason thereof and shall defend at its own expense such action or proceedings as may be necessary to remove such lien from the records within forty-five (45) days of notice from Licensor to Licensee of the existence of said lien. Notwithstanding anything to the contrary herein contained, Licensee may contest the validity of any mechanic's lien so long as the Airport and Improvements are protected by Licensee's posting of a bond in the amount of the lien.

17. Indemnification. Hold Harmless. Liability

(A) Licensee shall indemnify and hold harmless Licensor, its agents, employees, boards, and commissions from and against any and all suits, claims, causes of action, liabilities, losses, costs and expenses (including without limitation, attorneys' fees) of every kind (whether or not arising from the negligence or willful misconduct of Licensor) relating to or arising in connection with:

(1) Any act or omission of Licensee, its agents, directors, officers, owners, employees, members, contractors, subcontractors, licensees, tenants, subtenants, or invitees in, on or about any Activity Area, or in connection with Licensee's activities on the Airport;

(2) Any accident, injury, death or damage to any person or property at the Airport caused, in whole or in part, by Licensee, its agents, directors, officers, owners, employees, members, contractors, subcontractors, sublicensees, tenants or subtenant;

(3) Any breach, violation or nonperformance of any covenant, term or condition of this License to be performed or observed by Licensee, or of any restrictions of record or of any laws, ordinances, statutes, rules, codes or regulations, affecting Licensee's activities or use of the Airport.

(4) Any encroachment of Improvements made by Licensee upon property adjoining the Airport; and

(5) Any tax attributable to the execution, delivery or recording of this License.

(B) In case any action or proceeding is brought against Licensor by reason of any matter referred to in this Section, Licensee, upon written notice from Licensor, shall at Licensee's sole cost and expense, resist or defend such action or proceeding by counsel approved by Licensor in writing, provided that no approval of counsel shall be required in each instance where the action or proceeding is resisted or defended by counsel of an insurance carrier obligated to resist or defend such action or proceeding, and further provided that Licensor may engage at its expense its own counsel to participate in the defense of any such action.

(C) Notwithstanding anything contained in this License to the contrary, nothing in this License shall waive, or be construed to waive, any power or authority of Licensor under all applicable laws, ordinances, statutes, rules and regulations.

(D) The provisions of this Article as they apply to occurrences, or actual or contingent liabilities arising during the Term of this License shall survive the expiration or any earlier termination of this License.

(E) The indemnification and liability to the Licensor by Licensee as set forth above, shall also apply to any and all environmental matters and shall also include but not be limited to Licensee's duty to pay any fines and satisfy any punitive measures imposed upon Licensor by governmental agencies and Licensee's duty to pay Licensor for any costs or liability incurred by Licensor in connection with safety measures, containment and/or clean-up of environmental matters.

(F) The indemnification and liability to the Licensor by Licensee as set forth above, shall also apply to any and all security matters and shall include but not be limited to Licensee's duty to pay any fines and satisfy any punitive measures imposed upon Licensor by the FAA and any other governmental agencies in connection with breaches of security rules and regulations.

18. Damage or Destruction of Premises; Eminent Domain

(A) In the event of any damage or destruction to the Airport, by reason of fire or other casualty, Licensor will give immediate notice thereof to Licensee. Licensor may, at its option, terminate this License by giving written notice to Licensee, or may provide another location on the Airport for Licensor to conduct its activities.

If (i) the damage or destruction is not total or does not constitute a major injury to the Airport, or (ii) if Licensor does not elect to terminate this License as provided above, then Licensor shall make such repairs or restoration to the Airport to permit Licensee's activities to be conducted. There shall be no abatement of rent following any damage or destruction to the Airport or other interference with Licensee's ability to use and enjoy the Airport, but Licensee shall receive a credit against the fee payments next falling due for all proceeds of rent insurance paid to Licensor.

(B) If: (i) the entire Airport shall be taken by condemnation or other eminent domain proceedings, or (ii) a substantial portion of the Airport shall be taken by such proceedings so that the remaining portion shall be unsuitable for continued use by Licensee in its business, then this License shall terminate as of the date which is the earlier to occur of the date of transfer of possession or transfer of

title to the condemning authority. Licensee shall have the right to claim from the condemning authority, not from Licensor, such compensation as may be separately awarded or recoverable by Licensee in Licensee's own right on account of any cost or loss to which Licensee might be put in relocating its business or in removing Licensee's personalty.

19. Default by Licensee Remedies of Licensor

(A) Subject to the provisions of Subsection (J) below, in the event Licensee shall fail to pay when due any charges or fees herein reserved, or any other sum required to be paid by Licensee under this License, or default in the performance of or compliance with any of the terms, covenants, conditions or provisions of this License, or if Licensee vacates, abandons or deserts the Airport, or if Licensee shall be adjudicated as bankrupt, or shall make an assignment for the benefit of creditors or shall file a bill in equity or otherwise initiate proceedings for the appointment of a receiver of its assets, or shall file any proceedings in bankruptcy or for reorganization, adjustment, composition or an arrangement under any Federal or state law, or if any proceedings in bankruptcy or a petition seeking reorganization, arrangement, adjustment or composition or proceedings for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) shall be instituted with respect to Licensee under any state or Federal law, or if the assets of Licensee are attached or levied under execution or other legal process, or if Licensee fails to pay its debts generally as they become due, or if, Licensee admits in writing its inability to pay its debts as they mature, then and in addition to any other rights or remedies Licensor may have under this License or at law or in equity, Licensor, at Licensor's sole option, shall have the following rights:

(1) to accelerate the whole or any part of the fee for the entire unexpired balance of the Term of this License, as well as all other charges, payments, costs and expenses herein agreed to be paid by Licensee, and any fees or other charges, payments, costs and expenses if so accelerated shall, in addition to any and all installments of fees already due and payable and in arrears, and/or any charge or payment herein reserved, included or agreed to be treated or collected as fees and/or any other charge,

expense or cost herein agreed to be paid by Licensee which may be due and payable and in arrears, be deemed due and payable as if, by the terms and provisions of this License, such accelerated fees and other charges, payments, costs and expenses were on that date payable in advance;

(2) to terminate this Licensee and the Term hereby created without any right on the part of Licensee to waive the forfeiture by payment of any sum due or by other performance of any condition, term or covenant broken, but Licensee shall remain liable as herein provided; or

(3) whether or not this License has been terminated as herein provided, Licensor shall have the right to remove all persons and property from the Airport or any part thereof by force, summary proceedings, ejectment or otherwise. Licensor shall be under no liability for or by reason of any such repossession or removal. At any time or from time to time whether or not this License shall have been terminated, Licensor may (but shall be under no obligation to) reissue the License for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions (which may include various accommodations) and for such uses as Licensor, in its absolute discretion, may determine, and Licensor may collect and receive any fees payable by reason of such reissuance. Licensor may collect and receive any fees payable by reason of such reissuance. Licensor shall not be required to exercise any care of diligence with respect to such reissuance or to the mitigation of damages. No expiration or termination of this License, by operation of law or otherwise, and no reissuance of the License or any part thereof pursuant to this Section shall relieve Licensee of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reissuance;

(B) In the event of any expiration or termination of this License or removal from the Airport by reason of default, and if Licensor has not elected to accelerate fees pursuant to this Section, Licensee shall pay to Licensor the fees and other required sums to be paid by Licensee to and including the date of such expiration, termination or removal and, thereafter, Licensee shall, until the end of what would have been the expiration of the Term in the absence of such expiration, termination or removal, and whether or not the License or any part thereof shall have been reissued, be liable to Licensor for, and shall pay to Licensor, as current damages, the fees and other sums which would be payable under this License by

Licensee in the absence of such expiration, termination or removal, less the net proceeds, if any, of any reissuance (including, without limitation, all related removal costs, brokerage commissions, legal expenses, attorneys' fees, employees' expenses, alteration costs and expenses or preparation for such reissuance). Licensee shall pay such current damages on the days on which the fees would have been payable under this License in the absence of such expiration, termination or removal, and Licensor shall be entitled to recover the same from Licensee on each such day.

(C) If a default shall occur with respect to the payment of the fees herein reserved or in the payment of any other sums due hereunder by Licensee, Licensee hereby authorizes and empowers and Prothonotary or attorney of any court of record to appear for Licensee in any and all actions which may be brought for said fees and/or said other sums; and/or to sign for Licensee an agreement for entering in any court of competent jurisdiction an amicable action or actions, for the recovery of said fees and/or other sums; and in said suits or in said action or actions to confess judgment against Licensee for all or any part of said rental and/or said other sums, including but not limited to the amounts due from Licensee by virtue of acceleration, and for interest and costs, together with an attorney's commission for collection of five percent (5%). Such authority shall not be exhausted by one exercise thereof, but judgment may be confessed as aforesaid from time to time as often as any of said fees and/or other sums shall fall due or be in arrears, and such powers may be exercised as well during the Term or after the expiration of the Term of this License.

(D) Upon the occurrence of any default hereunder, and also when the Term hereby created shall have expired, it shall be lawful for any attorney of any court of record to appear as attorney for Licensee as well as for all persons claiming by, through or under Licensee, and to sign an agreement for entering in any court of competent jurisdiction an action in ejectment against Licensee and all persons claiming by, through or under Licensee and therein confess judgment for the removal of Licensee from the Airport for which this License shall be sufficient warrant.

(E) In any action of ejectment and/or for fees and/or other sums brought hereon, Licensor shall first cause to be filed in such action an affidavit made by Licensor or someone acting for Licensor, setting forth the facts necessary to authorize the entry of judgment, of which acts such affidavit

shall be prima facie evidence, and if a true copy of this License (and of the truth of the copy such affidavit shall be sufficient evidence) shall be filed in such suit, action or actions, it shall not be necessary to file the original as a warrant of attorney, and rule of court, custom or practice to the contrary notwithstanding.

(F) No right or remedy herein conferred upon or reserved to Licensor is intended to be exclusive of any other right or remedy herein or by law provided but each shall be cumulative and concurrent and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute or ordinance. The exercise of any one or more of such remedies shall not preclude the exercise by Licensor, at the same or different times, of any other remedies for the same default or any other default. No termination of this License or removal of Licensee from the Airport shall deprive Licensor of any remedies or actions against Licensee for fees, charges or for damages for the breach of any covenant or condition herein contained, nor shall the bringing of any such action for fees, charges or breach of covenant or condition, nor the resort to any other remedy or right for the recovery of fees, charges or demands for such breach be construed as a waiver or release of the right to insist upon the forfeiture and to obtain possession. No removal of Licensee from the Airport or reissuance of the License shall be construed as an election on the part of Licensor to terminate this License unless written notice of such intention be given by Licensor to Licensee. The failure of Licensor to insist upon the strict and/or prompt performance of the terms, agreements, covenants and conditions of this License or any of them, and/or the acceptance of such performance thereafter shall not constitute or be construed as a waiver of Licensor's right to thereafter enforce the same strictly according to the terms of this License in the event of a continuing or subsequent default.

(G) If Licensee fails to perform any covenant or observe any condition to be performed or observed by Licensee hereunder or acts in violation of any covenant or condition hereof, and thereafter, a default occurs, Licensor may, but shall not be required to, on behalf of Licensee, perform such covenant and/or take such steps, as may be necessary or appropriate to meet the requirement of any such covenant or condition, and all costs and expenses incurred by Licensor in so doing, including reasonable legal fees, shall be paid by Licensee to Licensor upon demand, as additional fees. Licensor's proceeding under the rights reserved to Licensor under this subsection shall not in any way prejudice or waive any

rights as Licensor might otherwise have against Licensee by reason of Licensee's default.

(H) Licensee shall pay upon demand all Licensor's costs, charges and expenses, including the fees of counsel, agents and others retained by Licensor (or, if Licensor utilizes its own employees for such services, the amount that Licensor would have paid had it engaged the services of outside counsel or others) incurred by Licensor in any litigation, negotiation or transaction in which Licensee causes Licensor to become involved or concerned.

(I) To secure all of its obligations under the License, Licensee hereby grants to Licensor a first priority security interest in the personal property and all equipment and trade fixtures necessary, useful or desirable in connection with Licensee's activities on the Airport, including without limitation all fixtures, equipment, machinery, furnishings, inventory, goods, appliances and other property of every kind and nature whatsoever, other than that which is owned by a sublicensee (the "Collateral").

Licensee shall, at its own cost and expense, execute, deliver and file any financing statements, continuation statements and other documents Licensor may reasonably require from time to time to perfect and maintain in favor of the Licensor a first priority security interest in the Collateral under the Uniform Commercial Code as in effect in Pennsylvania. Without limiting the generality of any of the foregoing, Licensee irrevocably appoints Licensor attorney-in-fact for Licensee, with the authority after a default to execute, deliver and file any of the documents referred to above for and on behalf of Licensor.

From and after the occurrence of any default hereunder, subject to the provisions of Subsection (J) below, Licensor shall have all of the remedies of a secured party under the Uniform Commercial Code as in effect in Pennsylvania with respect to all Collateral, including without limitation the right and power to own and use the Collateral in connection with the operation of its activities or otherwise, to sell or otherwise dispose of the Collateral or any part thereof.

(J) Notwithstanding anything hereinabove stated, Licensor agrees that Licensee shall not be in default hereunder, and Licensor will not exercise any right or remedy provided for in this License or allowed by law because of any default, unless Licensee shall have failed to pay, within a period of ten (10) calendar days after the due date, the sum or sums due if the potential default consists of the failure to pay money, or if the potential default consists of something other than the failure to pay money, Licensee shall

have failed, within fifteen (15) calendar days after the giving by Licensor of notice of such potential default to Licensee, to commence to correct such potential default and thereafter to actively and diligently in good faith proceed with and continue the correction of the potential default and to correct the same within no more than sixty (60) calendar days after such notice; provided, however, that no such notice from Licensor shall be required nor shall Licensor be required to allow any part of the said grace period (a) if Licensee shall have temporarily or permanently ceased operating and using the Airport to the extent and in the manner required by this License, or (b) Licensee shall have filed a petition in bankruptcy or for reorganization or a bill in equity or otherwise initiated proceedings for the appointment of a receiver of its assets, or if a receiver or trustee is appointed for Licensee, or Licensee makes an assignment for the benefit of creditors or if the assets of Licensee are attached or levied under execution on a judgment.

20. Licensor

The term "Licensor" as used in this License shall refer to the owner of Licensor's estate in the Airport, only for the time being. Licensor shall be and is hereby relieved of all covenants and obligations of Licensor hereunder, if any, accruing after the date of transfer of Licensor's estate in the Airport, and it shall be construed without further agreement between the parties that the transferee has assumed and agreed to carry out any and all covenants and obligations of Licensor hereunder, if any, during such time as said transferee shall own or hold Licensor's estate or interest in the Airport. The provisions of this Section shall apply to each successive transfer of Licensor's interest or estate in the Airport. The liability of any Licensor under this License shall be and hereby is limited to its interest in the Airport and no other assets of Licensor shall be affected by reason of any liability which Licensor may have to Licensee or to any other person by reason of the execution of this License, or acquisition of Licensor's interest in the Airport or this License.

21. Miscellaneous

(A) Nothing contained in this License shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Licensor and Licensee, it being expressly understood and agreed that neither the method or computation of rent nor any other provisions contained in this License nor any act of the parties

hereto shall be deemed to create any relationship between Licensors and Licensee other than the relationship of Licensors and Licensee.

(B) The word "Licensee" whenever used herein shall be construed to mean Licensees or any one or more of them in all cases where there is more than one Licensee or any one or more of them in all cases where there is more than one Licensee and the necessary grammatical changes shall in all cases be assumed as though in each case fully expressed. In all cases where there is more than one Licensee, the liability of each shall be joint and several. If the Licensee is a general partnership, the liability of the partners shall be joint and several.

(C) Licensee agrees at any time and from time to time, upon not less than thirty (30) days prior written notice by Licensors, Licensee shall execute, acknowledge and deliver to Licensors, or to any existing or prospective mortgagee, lessee, subtenant, purchaser from or assignee of Licensors, a statement in writing certifying that this License is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), and stating whether or not Licensee has knowledge of any existing default by Licensors or of any notice of default served by Licensee upon Licensors and stating the nature of any such defaults, it being intended that any such statement delivered pursuant to this Article may be relied upon by any existing or prospective mortgagee, licensee, or assignee of Licensors.

22. Waiver

No failure by Licensors or Licensee to insist upon the strict performance by the other of any agreement, term, condition or covenant hereof or to exercise any right of remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such agreement, term, condition, or covenant. No waiver of any breach shall affect or alter this License, but each and every agreement, term, condition and covenant hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

23. Time of the Essence

It is expressly understood and agreed that with respect to all responsibilities, covenants and conditions of Licensee herein, time is of the essence of this License. All payments are due by 4:00 P.M.

on the due date. Any payment that is submitted by Licensee to cure a financial default must be received no later than 4:00 P.M. on the final day of the cure period or such payment will not be accepted by Licensor as a cure of the default.

24. Invalid Provisions

In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either Licensor or Licensee in their respective rights and obligations contained in the valid covenants, conditions and provisions of this License.

25. Binding Nature of License

All of the terms, covenants and conditions of this License shall inure to the benefit of any be binding upon the parties hereto, their successors and assigns.

26. License Made in Pennsylvania

This License has been made in and shall be governed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

27. Entire Agreement

It is expressly understood and agreed by and between the parties hereto that this License sets forth all the promises, licenses, conditions and understandings between Licensor and Licensee and there are no promises, licenses, conditions or understandings, either oral or written, between them other than as are herein set forth. It is further understood and agreed that, except as herein otherwise provided, no subsequent alterations, amendment, change or addition to the License shall be binding upon Licensor or Licensee unless reduced to writing and signed by them.

CONSTRUCTION EXHIBITS

Exhibit B - Commencement and Completion of Construction

On or before _____, Tenant shall comply with all of the requirements set forth in Article VI and have construction commenced on improvements to be placed upon the premises at Tenant's expense. Such proposed improvements are generally described as follows:

Tenant agrees to complete construction of the improvements, and each and every part thereof on or before _____, 19____. The project will be deemed to be completed for the purposes of commencement of the term of this Sublease whether or not it is, in fact, complete on _____, 19____.

Failure to commence or complete construction of the improvements by the dates agreed to above shall be a default for which the Authority, at its option, and without first serving notice of said default to Tenant, may terminate this Sublease.

Department of Airports

AIRPORT USE AND ACCESS LICENSE

THIS LICENSE is made and entered into by and between:

COUNTY OF VENTURA, DEPARTMENT OF AIRPORTS

hereinafter called "County," and

hereinafter called "Licensee."

WHEREAS, Licensee owns that certain real property shown on Exhibit "A," which is attached hereto and made a part hereof by reference, and is hereinafter called "Property," that adjoins the Oxnard Airport, which is hereinafter called "Airport," and

WHEREAS, Licensee desires to obtain access to the Airport from Property, for aircraft owned and operated by Licensee or its invitees, and

WHEREAS, County is willing to grant to Licensee access and the right to use the Airport in accordance with the terms and conditions of this License.

NOW, THEREFORE, County hereby grants to licensee the privilege of access for aircraft from Property to Airport, together with the non-exclusive use of all public facilities at the Airport including but not limited to taxiways, runways, aprons, navigation aids, and facilities relating thereto for purposes of landings, takeoffs, and taxiing of aircraft.

The parties agree that the privilege of access and use of the Airport shall be subject to the following terms, covenants and conditions:

1. ACCESS LOCATION. The exact location of the access as granted herein is shown on Exhibit A.
2. SUBJECT TO AGREEMENTS. This License shall be subject to the provisions and requirements of any existing or future agreement between the County and the United States relative to the development, operation or maintenance of the Airport. In addition, the License shall be subject to whatever right the United States now has or will acquire in the future to control, operate, regulate and take over the Airport or to use same in an exclusive or non-exclusive manner during

AAAE Information Library

Section: 80.7

Box: LF17

the time of war or national emergency.

3. TERM. The term of this License is one year commencing on the first day of the calendar month following execution by County. The term may be extended contingent upon written mutual consent of the parties as to term of extension, fees and all other conditions deemed appropriate by either party.
4. OTHER REAL PROPERTY. No access shall be permitted between Property and other real property owned or controlled by Licensee for aircraft or airport related purposes.
5. USE. Licensee expresses the intention to use the Property for the principal purpose of storage of aircraft owned by Licensee; therefore, use of Airport access privileges as granted herein are expressly limited to Licensee's needs as they relate to such use and to use by Licensee's invitees.
6. SPECIFIC USES. Licensee's privilege of access to and use of Airport shall be limited to the following.
 - A. Storage of aircraft owned and operated by Licensee.
 - B. Storage of aircraft operated by Licensee's invitees, provided, however, that 15% of the aircraft storage fee's if any, collected therefrom shall be paid to the County as additional rent. Licensee shall submit to the County, no later than 10th day following the end of a month, a report of all such aircraft including "N" number, stored on the property and the storage fee collected therefrom. Payment of the additional rent due County shall accompany said report.
 - C. Storage and dispensing of aircraft fuel for use only in aircraft owned and operated by Licensee. Such fuel must be purchased from an on airport fuel dealer. If, however, at any time an on airport supplier is unwilling or unable to provide a level of service adequate to meet the needs of Licensee, an alternate source of supply may be used subject to prior written approval of the Airports Administrator. If such alternate supply of fuel is used, Licensee shall pay to County a gallonage fee equal to the then current aircraft fuel flowage fee for on airport fuel suppliers. Such fee shall be paid on the gallons of fuel delivered to Licensee on property and shall be paid within thirty days after delivery. Licensee shall, at the time of payment, furnish County copies of supplier's delivery invoice.

D. Prohibited uses include but are not limited to:

- 1) Air Charter
- 2) Aircraft Rental or Leasing
- 3) Flight School
- 4) Fuel Sales
- 5) Sale
- 6) Electronic repair or installations except on aircraft owned and operated by Licensee.
- 7) Routine or periodic aircraft inspection, except for inspection of aircraft owned and operated by Licensee.
- 8) Maintenance and service of aircraft not owned and operated by Licensee.

E. Request from Licensee for the inclusion of additional uses in Supplemental Use Agreement shall be promptly considered by County. The terms of such supplemental use shall comply with all the then applicable local, state, and federal regulations and such other terms, covenants and conditions required by the County.

7. NON-BASED OPERATION. It is understood and intended that Licensee's use of, or operations on, the Airport will not constitute or be considered as a Fixed Base Operation.
8. AIRPORT DEVELOPMENT. County reserves the right to change, further develop or improve the runway, taxiway, tie-down areas, automobile parking areas, access, or any other public facility of the Airport as it sees fit, regardless of the desires of the Licensee and without any liability to Licensee. Licensee shall not interfere with or hinder such change or development.
9. AVIGATIONAL NONINTERFERENCE Licensee agrees that it is to its benefit to maintain the Airport as a safe airport facility. Licensee further agrees to cooperate with County, F.A.A., and with other government agencies having jurisdiction over the use and development of the Property in such a fashion as to further such aim, particularly with respect to use of the Property so as not to interfere with the landing or take off of aircraft at the Airport or to otherwise constitute an aeronautical hazard.
10. CONTROL TOWER DIRECTIONS. All movements of aircraft from the Property to the Airport, including surface movements on non runway portions of the Airport, will at all times be under the control of and subject to direction from the Airport Control Tower when tower is in operation.

11. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS:

- A. Licensee shall maintain in good order Airport fencing and access gates along that portion of the Airport abutting developed area of Property.
- B. All improvements which are located on Airport shall be maintained by County.
- C. No other improvements shall be constructed on the Airport without prior written approval of the Airports Administrator.

12. SIGNS AND ADVERTISING. Licensee shall not erect or display, or permit to be erected or displayed, on the Airport any sign or advertising matter of any kind without first obtaining the written consent of the Airports Administrator.

13. FEE. Licensee shall pay to County a license fee of \$_____ per month, payable in advance on the first day of each and every calendar month.

14. SECURITY DEPOSIT, Concurrent with the execution of this License by Licensee, and as a condition precedent to the effectiveness of this License, Licensee shall provide to County and thereafter maintain a Time Certificate of Deposit or cash in the amount of three times the monthly fee to secure the payment of fees and other obligations provided for in this License.

15. INSURANCE. Concurrently with the execution of this License and as a condition precedent to the effectiveness of this License, Licensee shall obtain, pay premiums for, and thereafter maintain the following type and amount of insurance during the entire term of this License and any extension thereof.

Refer to current Rent and Fee Schedule approved by the Ventura County Board of Supervisors for the amount and category of insurance requirements.

The insurance shall name Licensee as the insured and the County as an additional insured and shall be procured from an insurance company licensed to do business in the State of California.

The insurance shall further provide that the insurance shall not be cancelled or reduced until a thirty day written notice of cancellation or reduction has been served by the insurer upon the County of Ventura. Licensee shall furnish County evidence of all insurance policies required by this License in the form of a Certificate of Insurance.

16. INSPECTION. Authorized County representatives shall have the right at all reasonable times and upon reasonable notification to inspect Licensee's property to determine if the provisions of the uses provided herein are being complied with subject to Licensee's security rules and regulations.
17. DEDICATION OF AIR SPACE. Licensee grants, for the use and benefit of the public, for a period consistent with the term of this License, a perpetual right of flight for the passage of aircraft in the air space above Licensee's Property, together with the right to cause in such air space such noise as may be inherent in the operation of aircraft, now or hereafter using said air space or landing at or taking off from or operating at the Airport.
18. TAXES AND ASSESSMENTS. A taxable interest may be created by this License and Licensee may be subject to the payment of possessory taxes levied on such interests. Licensee shall pay, before delinquent, any and all taxes and assessments levied against Licensee by reason of this License or of Licensee's use and occupancy of the Airport property.
19. COOPERATION WITH TENANTS. Licensee shall cooperate with all Tenants of the County who will be operating enterprises on the Airport and shall conduct its operations so as to avoid interference with the operations of Tenants. Any difference or conflict which may arise between Licensee and Tenants will be adjusted and determined by the Airports Administrator. If the operations of the Licensee are impaired because of any acts or omissions of such Tenants, Licensee shall have no claim against County on that account.
20. COMPLIANCE OF LAW. Licensee shall not use or permit the use of the Property or the Airport for any illegal or immoral purposes and shall comply with all federal, state, and local laws and ordinances concerning said property and use thereof.
21. AIRPORT REGULATIONS. Licensee agrees to observe, obey and abide by all applicable laws, ordinances, field rules, and other regulations for the common and joint use of the Airport facilities and for the maintenance and conduct of all its operations, which are now or may hereafter be imposed or promulgated by County, the Federal Aviation Agency or any other governmental agency having jurisdiction over the subject matter.

22. DISCRIMINATION. Licensee agrees not to discriminate against any person by reason of race, sex, color, creed or national origin in the use of Airport property.
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28. TIME. Time is of the essence of this License.
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